

**Please note: These transcripts are not individually reviewed and approved for accuracy.**

MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA JR., CalePA BUILDING  
1001 I STREET  
BYRON SHER AUDITORIUM  
SACRAMENTO, CALIFORNIA

TUESDAY, FEBRUARY 24, 2009  
9:39 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chairperson

Ms. Sheila Kuehl

Mr. John Laird

Ms. Carole Migden

Ms. Rosalie Mul

Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director

Ms. Rubia Packard, Chief Deputy Director

Mr. Elliot Block, Chief Counsel

Mr. Fernando Berton, Manager, Research & Applied  
Technology Branch

Ms. Tracey Cottingim, Administrative Assistant

Mr. Tom Estes, Deputy Director, Administration and Finance  
Division

Ms. Sally French

Ms. Kristen Garner, Executive Assistant

Mr. Nate Gauff

Ms. Elizabeth Huber, Legislative Director

Mr. Howard Levenson, Director, Sustainability Program

Mr. Jon Myers, Assistant Director, Office of Public  
Affairs

Mr. Ted Rauh, Director, Waste Compliance and Mitigation  
Program

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Arthur Boone, Northern California Recycling  
Association

Mr. Doug Eubanks, Sacramento County Department of Waste  
Management & Recycling

Mr. Terry Leveille, TL & Associates

Mr. Patrick Matthews, City of Greenfield

Mr. Larry Sweetser, Rural Counties Environmental Services  
Joint Powers Authority

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

INDEX		PAGE
I	CALL TO ORDER	1
II	ROLL CALL AND DECLARATION OF QUORUM	1
III	OPENING REMARKS	1
IV	REPORTS AND PRESENTATIONS	
V	PUBLIC COMMENT	2
VI	CONSENT AGENDA	4
VII	CONTINUED BUSINESS AGENDA ITEMS	
VIII	NEW BUSINESS AGENDA ITEMS	4
	Permitting and Compliance	
1.	Consideration Of The Amended Countywide Siting Element For Kern County	4
	Motion	5
	Vote	5
2.	Consideration Of The 2005/2006 Biennial Review Findings For The Source Reduction And Recycling Element; And Consideration Of Issuance Of A Compliance Order For The City Of Clearlake, Lake County	4
	Motion	5
	Vote	5
3.	Consideration Of The 2005/2006 Biennial Review Findings For The Source Reduction And Recycling Element; And Consideration Of Issuance Of A Compliance Order For The City Of Greenfield, Monterey County	22
	Motion	30
	Vote	30
4.	PULLED Public Hearing And Consideration Of The Imposition Of Penalties Against The City Of Ridgecrest, Kern County, Pursuant To Compliance Order IWMA BR07-07 (Public Resources Code Section 41850)	6

INDEX CONTINUED

	PAGE
5. Consideration Of Allocation And Grant Awards For The Solid Waste Disposal And Codisposal Site Cleanup Program (Solid Waste Disposal Trust Fund, FY 2008/09)	7
Motion	8
Vote	8
6. Consideration Of A New Project For The Waste Tire Stabilization And Abatement Program (Tire Recycling Management Fund, FY 2008/09)	9
Motion	10
Vote	10
7. Consideration Of Scope Of Work For Statewide Program Environmental Impact Report For Anaerobic Digestion Facilities (Integrated Waste Management Account FY 2008/09)	4
Motion	5
Vote	5
8. Presentation On Rigid Plastic Packaging Container Program And Revised Regulations	5
Strategic Policy Development	
9. Discussion Of Draft Biennial Update Of The Five-Year Plan For The Waste Tire Recycling Management Program (5th Edition Covering FYs 2009/10 - 2013/14) (Tire Recycling Management Fund)	30
10. Consideration Of Revised Model Program And Procedures For The Collection And Proper Disposal Of Home-Generated Pharmaceutical Waste As Required By Public Resources Code Sections 47120-47126	62
Motion	84
Vote	84
11. Consideration Of Allocation Proposals To Be Funded From the Used Oil Recycling Fund For Fiscal Year 2008/09 And Request For Board Direction On Potential Future Activities	11
Motion	21
Vote	21

INDEX CONTINUED

PAGE

Market Development and Sustainability	
12. Consideration Of Scope Of Work For The Rubberized Asphalt Concrete Engineering And Technical Assistance Contract (Tire Recycling Management Fund, FYs 2009/10, 2010/11 and 2011/12)	86
Motion	90
Vote	91
Other	
13. Consideration Of A Limited Exception To The Tire-Derived Product Business Assistance Program Criterion Requiring The Use Of California-Derived Crumb Rubber (Tire Recycling Management Fund, FYs 2007/08 And 2008/09)	91
Motion	104
Vote	104
IX BOARD MEMBERS COMMENT	
X ADJOURNMENT	104
Reporter's Certificate	105

1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning. Welcome to the  
3 February meeting of the Integrated Waste Management Board.  
4 I call this meeting to order and ask that -- Kristen, can  
5 you call the roll.

6 EXECUTIVE ASSISTANT GARNER: Kuehl?

7 BOARD MEMBER KUEHL: Here.

8 EXECUTIVE ASSISTANT GARNER: Laird?

9 BOARD MEMBER LAIRD: Here.

10 EXECUTIVE ASSISTANT GARNER: Migden?

11 BOARD MEMBER MIGDEN: Here.

12 EXECUTIVE ASSISTANT GARNER: Mulé?

13 BOARD MEMBER MULÉ: Here.

14 EXECUTIVE ASSISTANT GARNER: Petersen?

15 BOARD MEMBER PETERSEN: Here.

16 EXECUTIVE ASSISTANT GARNER: Brown?

17 CHAIRPERSON BROWN: Here.

18 Any ex partes to report?

19 Seems like everybody is up-to-date.

20 Remind people, and I will do the same, turn your  
21 cell phones to the vibrate mode and turn your ringers off.

22 If you would like to speak to any of the items,  
23 there are speaker slips in the back of the room.

24 I'd like to ask everybody to stand for the Pledge  
25 of Allegiance.

1           (Thereupon the Pledge of Allegiance was  
2           Recited in unison.)

3           CHAIRPERSON BROWN: Thank you.

4           Okay. We have two speakers during the public  
5 comment period.

6           The first speaker is Mr. Arthur Boone.

7           And just while you're coming up, Mr. Boone. Mr.  
8 Eubanks, the item that you are interested in speaking to  
9 is on fiscal consent. So we will have a presentation,  
10 which will mean that we will already have an opportunity  
11 for a speaker.

12           So if you don't mind, I will -- rather than  
13 during public comment, we will take it up as a speaker  
14 slip during Item 11.

15           That was my fault.

16           So we'll have one speaker during public comment.

17           Commence, Mr. Boone?

18           MR. BOONE: Thank you.

19           My name's Arthur Boone. I'm the Education  
20 Director for the Northern California Recycling  
21 Association.

22           Item 7, which is on your consent calendar, we  
23 just wanted to say a few words in support of that  
24 resolution and to call attention to a couple of issues  
25 that we have locally.



1           We like anaerobic digestion. We feel it's one of  
2 the more acceptable conversion technologies. But we think  
3 it's very important that everybody understand that  
4 source-separated organics are not a solid waste from our  
5 perspective.

6           City of Oakland essentially has declared that the  
7 source-separated organics are not under the franchise, in  
8 other words that they are not a garbage matter that has to  
9 be hauled only by garbage companies. This is very  
10 important to a client -- a personal client of mine. We  
11 have a kitchen in Oakland that feeds 300 people. And if  
12 they hire the garbage company to haul their  
13 source-separated organics, they're going to end up paying  
14 85 percent of what they're going to pay to haul it as  
15 garbage. And the manager who was there said, "I don't  
16 want to fool with it for that." They have trucks. They  
17 could go to a facility. But at this point, they're not  
18 sure what facilities are going to take it, what they want  
19 and all this kind of stuff.

20           So we think that being able to haul  
21 source-separated organics in the same way that truckers  
22 can haul tires or probably a whole bunch of other things  
23 should may be a matter of regulation. But we want the  
24 public and the citizens to have the right to do that and  
25 independent businesses the right to get in just like they

1 can haul garbage boxes.

2 So that's all. We think it's a good plan. We're  
3 very glad to see this moving forward. And we do like  
4 anaerobic digestion.

5 Thank you.

6 CHAIRPERSON BROWN: Thank you very much for being  
7 here and for your comments.

8 Point of clarification. Patrick Matthews. Are  
9 you here making yourself available or are you requesting  
10 that the item be pulled from consent so that you may make  
11 a statement?

12 MR. MATTHEWS: Item 3 on Permitting and  
13 Compliance?

14 CHAIRPERSON BROWN: Right. It's on the consent  
15 calendar. So we wouldn't normally have speakers unless  
16 you're requesting. Are you just making yourself available  
17 for members who have comments, or did you want to speak to  
18 the item?

19 MR. MATTHEWS: I'd like to speak to the item.

20 CHAIRPERSON BROWN: So you're requesting that it  
21 be pulled from the consent calendar?

22 MR. MATTHEWS: Yes.

23 CHAIRPERSON BROWN: Thank you.

24 Okay. We will start with the consent calendar.

25 Items 1, 2, and 7 are on consent. Do any members or

1 anybody else wish to have any items pulled from the  
2 consent calendar?

3 Can I have a motion.

4 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
5 the consent calendar.

6 BOARD MEMBER LAIRD: Second.

7 CHAIRPERSON BROWN: It's been moved by Member  
8 Mulé and seconded by Member Laird.

9 Kristen, can you call the roll.

10 EXECUTIVE ASSISTANT GARNER: Kuehl?

11 BOARD MEMBER KUEHL: Aye.

12 EXECUTIVE ASSISTANT GARNER: Laird?

13 BOARD MEMBER LAIRD: Aye.

14 EXECUTIVE ASSISTANT GARNER: Migden?

15 BOARD MEMBER MIGDEN: Aye.

16 EXECUTIVE ASSISTANT GARNER: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 EXECUTIVE ASSISTANT GARNER: Petersen?

19 BOARD MEMBER PETERSEN: Aye.

20 EXECUTIVE ASSISTANT GARNER: Brown?

21 CHAIRPERSON BROWN: Aye.

22 The consent calendar is approved.

23 Items 5 revised, 6, and 11 will be heard on  
24 fiscal consent.

25 Item 8 was pulled -- was heard in committee only.

1           Item 4 was pulled.

2           We will hear Items 3, 9, 10, 12, and 13 by the  
3 full Board.

4           So we'll move first to fiscal consent items on  
5 the Permitting and Compliance Committee agenda, and ask  
6 Committee Chair Mulé if she wishes to make a committee  
7 report?

8           BOARD MEMBER MULÉ: Yes, I would. Thank you,  
9 Madam Chair.

10          We had several items on the consent calendar  
11 which we just approved. First, was the approval of the  
12 countywide siting element for Kern County.

13          We issued two compliance orders for AB 939 for  
14 the cities of Clearlake and Greenfield.

15          And as you just heard, the city -- Item 3, City  
16 of Greenfield has requested that that item be pulled.

17          Thirdly on consent was the scope of work for the  
18 Statewide Environmental Impact Report for anaerobic  
19 digestion facilities.

20          The two fiscal consent items, which we were about  
21 to hear are:

22          The grant awards for the Solid Waste Disposal and  
23 Codisposal Site Cleanup Program; and also

24          Approval of a new project for the Waste Tire  
25 Stabilization and Abatement Program, which is for Lake

1 Oroville.

2 And then in committee only we heard a  
3 presentation from staff and an update on the revised  
4 regulations for the RPPC program.

5 And that concludes my report. Thank you, Madam  
6 Chair.

7 CHAIRPERSON BROWN: Thank you.

8 So we will go to Item 5.

9 Ted.

10 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

11 RAUH: Tied up my mike here.

12 There we go.

13 I beg your pardon.

14 Yes, good morning, Chair Brown and Board members.

15 I'm Ted Rauh, Waste Compliance and Mitigation Program

16 Director, for the record.

17 Item 5 is Consideration of Allocation and Grant

18 Awards for the Solid Waste Disposal and Codisposal Site

19 Cleanup Program.

20 Staff has completed an evaluation, recommends

21 approval of five new grants covering nine sites and

22 totaling \$2,349,216 pursuant to the two grant programs

23 under the Solid Waste Disposal and Codisposal Site Cleanup

24 Program.

25 All the grants are within local government

1 entities and cost recovery is not applicable. The  
2 grants -- however, the grant with the County of San Diego  
3 will restore a county little league park, an  
4 environmentally sensitive area.

5 The grants to the cities of Oceanside and Huron  
6 and to the Truckee Sanitation District will help restore  
7 properties that were burn dumps and are now being used for  
8 park and recreation services.

9 And the grant with the Imperial Irrigation  
10 District will help restore five of the worst illegal dump  
11 sites that are along the New River in Imperial County.

12 Staff recommends the Board approve the proposed  
13 grants and adopt Resolution 2009-32 revised.

14 And that concludes our presentation.

15 CHAIRPERSON BROWN: Thank you, Ted.

16 Any questions on this item?

17 A motion?

18 BOARD MEMBER MULÉ: I'd like to move Resolution  
19 2009-32 revised.

20 BOARD MEMBER KUEHL: Second.

21 CHAIRPERSON BROWN: It's been moved by Member  
22 Mulé and seconded by Member Kuehl.

23 Kristen, can you call the roll.

24 EXECUTIVE ASSISTANT GARNER: Kuehl?

25 BOARD MEMBER KUEHL: Aye.

1 EXECUTIVE ASSISTANT GARNER: Laird?

2 BOARD MEMBER LAIRD: Aye.

3 EXECUTIVE ASSISTANT GARNER: Migden?

4 BOARD MEMBER MIGDEN: Aye.

5 EXECUTIVE ASSISTANT GARNER: Mulé?

6 BOARD MEMBER MULÉ: Aye.

7 EXECUTIVE ASSISTANT GARNER: Petersen?

8 BOARD MEMBER PETERSEN: Aye.

9 EXECUTIVE ASSISTANT GARNER: Brown?

10 CHAIRPERSON BROWN: Aye.

11 The item passes.

12 We'll move next to Item 6.

13 Ted.

14 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

15 RAUH: Thank you.

16 Item 6 is Consideration of a New Project for the  
17 Waste Tire Stabilization and Abatement Program.

18 Staff has completed an evaluation and recommends  
19 approval of a Board-managed project at Lake Oroville for  
20 \$75,000, pursuant to the Waste Tire Stabilization and  
21 Abatement Program.

22 The project will remove approximately 2,500 tires  
23 previously used for fish habitat that have now become both  
24 a health risk and a nuisance. The lake is publicly owned  
25 and no cost recovery is necessary.

1           Staff recommends the Board approve the project  
2 and adopt Resolution No. 2009-30.

3           And that concludes the staff presentation.

4           CHAIRPERSON BROWN: Thank you, Ted.

5           Any questions on this item?

6           Can I have a motion?

7           BOARD MEMBER MULÉ: I move Resolution 2009-30.

8           BOARD MEMBER KUEHL: Second.

9           CHAIRPERSON BROWN: It's been moved by Member  
10 Mulé and seconded by Member Kuehl.

11           Without objection, we can substitute the previous  
12 roll.

13           And move next to -- all the strategic planning  
14 items are on the full Board or fiscal consent.

15           So we'll move next to Committee Chair Gary  
16 Petersen if he wishes to make a Committee report.

17           BOARD MEMBER PETERSEN: Madam Chair, we waived  
18 our Committee meeting this last week in order to expedite  
19 and brought it to the Full Board Item 12 and 13. We only  
20 had Item 12. Figured it would be expedient to move this  
21 to the full Board instead of taking up staff's time in a  
22 committee meeting.

23           Thank you.

24           CHAIRPERSON BROWN: I'm sorry. One more fiscal  
25 consent item, and that's Item 12.



1 Howard.

2 I mean 11. Sorry.

3 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Thank  
4 you, Madam Chair. For the record, I'm Howard Levenson,  
5 Director of the Sustainability Program.

6 Item 11 is Consideration of Allocation Proposals  
7 from the Used Oil Fund.

8 We are asking that you approve funding for our  
9 statewide education and outreach activities on the order  
10 of \$109,000, the bulk of which would be used for our  
11 annual conference with our stakeholders, local  
12 jurisdictions, and the certified centers; and then a  
13 little bit for a sponsorship on Creek Week education.

14 So staff recommends that the Board approve Option  
15 1 and adopt Resolution 2009-25.

16 Thank you.

17 CHAIRPERSON BROWN: Thank you.

18 We do have a speaker on this one.

19 Before the speaker, are there any Board members  
20 that have any questions?

21 Okay. Our first speaker is Doug Eubanks.

22 MR. EUBANKS: Good morning. Thank you very much.  
23 My name is Doug Eubanks. I'm the Recycling Coordinator  
24 for Sacramento County's Department of Waste Management and  
25 Recycling. And I also head up a group that's known as the

1 Regional Recycling Group, made up of representatives from  
2 primarily northern California. There's about 30 of us  
3 that meet monthly to address issues -- public outreach and  
4 education issues.

5 We also work cooperatively on two annual major  
6 outreach campaigns - a used oil and used oil filter  
7 recycling effort, and also a holiday waste reduction  
8 effort.

9 I'm here today specifically to address  
10 information that was contained in the analysis portion of  
11 this agenda Item No. 11 for today's meeting.

12 Cities and counties are very concerned with a  
13 Board-proposed staff action that would significantly  
14 reduce funding for used oil block grants from \$10 million  
15 to \$6 million annually in fiscal year '09-'10. This  
16 represents a 40 percent cut and would have a really  
17 significant effect on our outreach efforts that we do  
18 cooperatively as a group.

19 In justifying this change, the Board staff states  
20 the Used Oil Recycling Fund will have a reduction in  
21 expected revenue from 18.8 million to 16 million in both  
22 fiscal years '08-'09 and '09-'10.

23 The main issue here is that the Used Oil  
24 Recycling Fund is projected to be reduced by 15 percent,  
25 from 18.8 million to 16 million; but the Board staff is

1 suggesting a 40 percent reduction in our block grants. So  
2 I'm just kind of looking for some additional explanation  
3 here of why those numbers are so different, so that we can  
4 understand this item better.

5 Our hope is that your Board can shed some light  
6 on this important issue, and to the maximum extent  
7 possible, ensure that the block grant funds continue to  
8 flow to local jurisdictions, so that we can implement  
9 these very important programs.

10 Thank you.

11 CHAIRPERSON BROWN: Mr. Eubanks, thank you very  
12 much for being here. Appreciate your comments. And  
13 certainly the programs -- the valuable programs that you  
14 provide, I will say at the onset, we cannot get into a  
15 lengthy discussion of this item, because it wasn't noticed  
16 for that purpose. We can answer your questions at some  
17 level.

18 So I'm going to turn it over to Mark to talk to  
19 you specifically about the Category 1 and 2 funding and  
20 how the block grants are allocated. But in order to get  
21 into a lengthy discussion and analysis of this item, we  
22 will have to notice it for a future Board meeting.

23 So I'll turn it over to Mark for a budget review.

24 EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
25 Chair. And good morning, members.

1           And thank you, Mr. Eubanks for raising the issue.  
2 I'm happy to offer an explanation that I will here today,  
3 get into it at kind of a surficial level. And then if  
4 we'd like to -- if you'd like to have extended  
5 conversations with Howard Levenson; Tom Estes, my Admin  
6 Chief; or myself, I'd be happy to do that.

7           As the agenda item states, and Mr. Eubanks  
8 quotes, the used oil revenue is declining. In fact, we've  
9 seen a steady seven percent decline over the last two  
10 years and an even steadier decline over a longer period of  
11 time. We're projecting a 14 -- as Mr. Eubanks said 15,  
12 our number's 14 -- for a 14 percent decline from fiscal  
13 year '8-'9 to the budget year '9-'10. This projection is  
14 actually supported by actual revenue numbers that we  
15 received for the first two quarters of this year.

16           As you can see on the bar graph here, on the far  
17 right is fiscal year '8-'9, and you see quarter three in  
18 '08 and quarter four in '08 are actual numbers below \$4  
19 million, which projects to an actual total revenue for the  
20 year of around 16, when in '7-'8 our revenue was 18.8. A  
21 very significant increase.

22           It helps to explain this, Mr. Eubanks and Board  
23 members, by looking year over year at the budget process  
24 that is included in the Governor's budget. So if we could  
25 have the -- oh, I guess it's my control, huh?

1 (Thereupon an overhead presentation was

2 Presented as follows.)

3 EXECUTIVE DIRECTOR LEARY: If you look year over  
4 year of actual fund revenue and expenditures, we started  
5 fiscal year '7-'8 with a hardy beginning balance. We  
6 hadn't seen the full impact of declining revenues yet.  
7 And we had had a balance because of unexpended monies that  
8 had reverted to the fund in previous years.

9 But the grantees have gotten better at spending  
10 their money. So our expenditures in '7-'8 were  
11 \$20,339,000, leaving a fund balance at the end of the year  
12 of four million five hundred sixteen. You roll that up  
13 into the next year, and we project a revenue decline that,  
14 as I suggested we're actually seeing, of \$16 million. But  
15 we're still making the full \$10 million allocation to the  
16 block grant. So our expenditures stay the same in the  
17 current year. But with reduced revenue, our fund balance,  
18 at the end of the fiscal year '8-'9, is down to \$935  
19 million.

20 So with the full expenditure of the block grants  
21 and a declining revenue, it has a rapid effect on our fund  
22 balance. So as you then start to consider the budget  
23 year, we roll over the fund balance of \$935 million, again  
24 apply our projected revenue of \$16 million, and we have  
25 less resources to spread across the four categories that

1 are defined in statute.

2 So if you'll hold on to that number, \$17,419,000,  
3 and we'll go to the next slide.

4 --oOo--

5 EXECUTIVE DIRECTOR LEARY: Oh, that's my control.

6 You have four categories of expenditures from  
7 that total resources level. In Category 1, which the  
8 statute suggests is a higher priority than subsequent  
9 categories, block grants being in Category 2, we're  
10 already making an expenditure of \$10 million out of that  
11 fund balance for the Category 1 priorities, which include  
12 the incentive to the collection of recycled oil at the  
13 2,000 or so collection centers across the state. That's  
14 somewhere in the neighborhood of about \$4 million a year.

15 Now, the statute requires us to maintain a  
16 reserve of up to a million dollars. And then our  
17 programmatic costs here at the Board and at DTSC, which  
18 include managing all the grants, collecting the fee,  
19 because the Waste Board collects the oil fee itself rather  
20 than relying on BOE, then we have to pay DTSC's costs for  
21 regulating the oil facility. So that comes to about \$5  
22 million in total.

23 So when you subtract 10 million from the 17  
24 million, all we have left is \$6 million to make the spread  
25 down to Category 2.

1           And hence the Governor's budget asked for a  
2 reduction in -- or change in statute, through Budget Act  
3 language, to reduce the minimum of \$10 million to \$6  
4 million, because that's what -- that's all we have to  
5 spend.

6           And we get through Category 3 and 4 and we'll  
7 enter a preparation for the '10-'11 budget with a fund  
8 balance of only \$990,000 and continually looking at the  
9 reduced expenditures. It is the state of the oil fund.

10          The 3,000 Mile Myth Program that the Board has  
11 offered appears to have been some -- has been successful.  
12 Price of gasoline, the price of oil has extended life  
13 between oil changes for California's drivers. And  
14 that's -- that is the state of the oil fund.

15          So, Mr. Eubanks, I sympathize with the program  
16 implementation. I appreciate that it's hard and it's kind  
17 of drastic all in one year. But the fact of the matter is  
18 that that's what we had to spend in that year.

19          So with that, Madam Chair, I'll take your  
20 questions if you have any.

21          CHAIRPERSON BROWN: Member Laird.

22          BOARD MEMBER LAIRD: Yes, I have a couple of  
23 questions. And I do appreciate the Chair's admonishment  
24 about the length of this.

25          Just for the benefit of the people that are here,

1 two questions. The first one is, is obviously revenue  
2 into the fund comes from interest or carry-over and fee.  
3 And you can't really control the carry-over or the  
4 interest of the fee. Is the fee statutorily set?

5 So if there were to be any change in the fee,  
6 it's not within the purview of the Board. It requires a  
7 statutory change.

8 EXECUTIVE DIRECTOR LEARY: Yes, Mr. Laird.

9 BOARD MEMBER LAIRD: And then the second question  
10 is, what's the process going forward in making a decision  
11 about this? Is it through the State budget process and  
12 our follow-up as a board in how we process it? But if  
13 they wish to impact the process, what are the next steps  
14 that they can either attend or participate, in addition to  
15 your offer to sit down with them and walk through all  
16 this?

17 EXECUTIVE DIRECTOR LEARY: Well, I think you're  
18 leading towards the suggestion that at least one  
19 opportunity for effecting change, of course, is through  
20 the legislative process. We understand there is some  
21 interest in the Legislature this year to possibly  
22 reevaluate and restructure the Used Oil Grant Program. I  
23 think -- without getting out ahead of the Governor's  
24 office, I think we would be supportive of that notion  
25 generally. And I think that it's certainly time probably



1 to revisit the oil program and consider all aspects of it,  
2 including the categorical or prioritization spending.

3 And then, secondly, we have a regular interaction  
4 with the used oil participants, an annual conference. We  
5 can continue to interact with our stakeholders through  
6 that forum and explain the use of our monies. And then  
7 internally, certainly we will start an effort -- given  
8 this impact on our grantees, our partners in this program,  
9 we can look to streamline our own activities and get more  
10 efficient, as we have done, in delivering our grant  
11 programs, collecting our fees, and being less of a draw on  
12 the reserve ourselves as the Integrated Waste Management  
13 Board. And maybe we'll strive to do that.

14 BOARD MEMBER LAIRD: Just a follow-up question.

15 EXECUTIVE DIRECTOR LEARY: Sure.

16 BOARD MEMBER LAIRD: Just a piece that I was  
17 looking for is -- is the decision as to how to allocate  
18 revenue within the resources available going to happen  
19 between -- in the State budget, and that you have to  
20 impact the State budget? Or does the State budget decide  
21 the total amount and we, as a board, decide how to  
22 allocate it, so that they know which process to deal with  
23 and how they might wish to impact it?

24 EXECUTIVE DIRECTOR LEARY: Probably more the  
25 latter. The State budget process gives us the largest

1 numbers. Of course, we define what's put in the  
2 Governor's budget clearly, and then it's modified through  
3 the legislative process.

4 But I think the principal driver on this is the  
5 categorical expenditures defined in statute. I mean, it  
6 doesn't give us a lot of leeway either.

7 BOARD MEMBER LAIRD: No, I get that. What I'm  
8 trying to do -- is they're sitting here right now. And  
9 I'm trying to guide them as to what the best place and  
10 point is to impact the process. That's what I'm trying to  
11 ascertain for them to take away from this.

12 EXECUTIVE DIRECTOR LEARY: Well, I think  
13 fundamentally the answer is legislative.

14 CHAIRPERSON BROWN: Right.

15 EXECUTIVE DIRECTOR LEARY: I mean, it's got to be  
16 a modification --

17 CHAIRPERSON BROWN: The formula is set in statute  
18 and the categories are set in statute. So in order to  
19 change Category 1, funding priorities, that needs to be  
20 done in statute.

21 BOARD MEMBER LAIRD: It's not like I didn't know  
22 the answer to that question. I wanted it to be for them.

23 EXECUTIVE DIRECTOR LEARY: I'm sorry I took so  
24 long to get to it.

25 BOARD MEMBER LAIRD: So I'm grateful. I

1 appreciate everybody's response. Thank you.

2 CHAIRPERSON BROWN: Thank you, Mark.

3 EXECUTIVE DIRECTOR LEARY: Thank you.

4 CHAIRPERSON BROWN: Any other questions from the  
5 dais?

6 Okay. Thank you, Mr. Eubanks.

7 If you have any follow-up questions, any of us,  
8 or the staff -- Howard's staff, be happy to sit down with  
9 you and go through some specifics.

10 Okay. Item 11, fiscal consent.

11 Can I have a motion.

12 BOARD MEMBER MULÉ: Madam Chair, I would like to  
13 move Resolution 2009-25.

14 CHAIRPERSON BROWN: Can I have a second?

15 BOARD MEMBER KUEHL: Second.

16 CHAIRPERSON BROWN: Thank you.

17 It's been moved by Member Mulé, seconded by  
18 Member Kuehl.

19 Without objection, we can substitute the previous  
20 roll.

21 And that exhausts our physical -- thank you,  
22 Gary.

23 BOARD MEMBER PETERSEN: You're welcome.

24 (Laughter.)

25 CHAIRPERSON BROWN: -- our fiscal consent items.

1           So now we'll move to our full Board items. We'll  
2 start with Item 3, which was requested to be pulled.

3           I think since we have a speaker on this item, we  
4 can move directly to the speaker, unless you're looking  
5 for a presentation from our staff.

6           Okay. So we'll move to our speaker, Patrick  
7 Matthews.

8           MR. MATTHEWS: Good morning, Board members. I'm  
9 Patrick Matthews, General Manager with the Salinas Valley  
10 Solid Waste Authority. I'm here representing the City of  
11 Greenfield as one of our joint powers authority members.

12           And I'd just like to say, you know, I actually  
13 really appreciate the work that staff has done with our  
14 staff. We have all -- and I believe your LAM staff in  
15 particular. We've all been struggling with why this city,  
16 who's been so proactive in their diversion efforts, has  
17 seen such a significant decline in their diversion numbers  
18 and why we're here today to look at a compliance order.

19           I'll kind of shorten my presentation because we  
20 did most of this at the Permitting and Compliance Section.  
21 But we did present a summary of the SRRE efforts that the  
22 City of Greenfield has undertaken. That included a large  
23 number of programs, all which have been implemented, with  
24 the exception of transformation, which has just been  
25 discontinued due to loss of local markets.

1           We also went over another large number of  
2 additional programs that both the authority and the City  
3 of Greenfield have implemented since 2005, other programs  
4 such as green waste recycling, curbside recycling -- I'm  
5 sorry -- curbside green waste recycling and a number of  
6 other community programs.

7           In addition, we outlined a series of, again,  
8 additional programs that the authority and the City would  
9 be undertaking to further increase diversion efforts.

10           Why I'm here today though is really not to sell  
11 you on the programs and the efforts and the commitment  
12 that the City of Greenfield has made, but it's really to  
13 point out kind of a handicap that we have since determined  
14 kind of exists in the calculation and the numbers for  
15 Greenfield. And we'd really like to have some  
16 consideration of that, as we go through the compliance  
17 order.

18           I think first and foremost what we heard from  
19 staff during the presentation last week was that in the  
20 calculation, you know that diversion numbers are  
21 calculated and readjusted every year based on a baseline.  
22 And Greenfield's baseline was based on 1999. In the  
23 baseline study, it was assumed -- or it was calculated  
24 that 36 percent of the city's waste was coming from the  
25 residential sector. And, at that time, that was probably

1 an accurate number. Since then though the City of  
2 Greenfield has undergone an extraordinary increase in  
3 residential growth. In the years 2005 and 2006, they  
4 added 20 percent -- had a 20 percent increase in  
5 residential unit development in the city. So during the  
6 2005 year, a lot of that construction was going on and in  
7 2005 and 6 the residents were moving into those new units.  
8 So they had a very substantial increase.

9 In 2008, the authority undertook a waste  
10 characterization study. And as a result of that  
11 characterization study, we recategorized commercial and  
12 residential waste. And the results of our study showed  
13 that the actual residential part of the waste stream is  
14 actually 53 percent now. So that's significantly higher.

15 But because we're still being held to the 35  
16 percent rate, that was adopted during the '99 baseline  
17 report, we don't believe that the number is accurately  
18 reflecting what the two generation number is. And, in  
19 fact, during that study, we had the consultant take a very  
20 close look at the generation rates for both the commercial  
21 and residential sector. And they projected a net  
22 generation number of 17,000 tons for the year 2007, two  
23 years after this baseline study. So I think that shows  
24 that there really is a discrepancy between the generation  
25 numbers right now, which are running around 12,000 tons,

1 and what our actual survey studies are showing that are  
2 significantly higher.

3           If you take those into consideration, this city  
4 is approaching 50 percent or exceeding 50 percent  
5 diversion rates. You know, that's significant. And  
6 that's a significant drop-off in this.

7           And I might just add, during the Permitting and  
8 Compliance Section, we also provided you with a quick  
9 summary of those numbers that we could actually quantify,  
10 the quantifiable diversion efforts. We do origin surveys  
11 for diverted materials at our facilities, as well as  
12 disposed materials.

13           And just looking at those two numbers alone, the  
14 reported disposal, and what we could determine from our  
15 records, materials that we handled that are diverted  
16 through our programs, we had a generation rate of well  
17 over 12,000 tons, again exceeding the Waste Board's  
18 calculated generation rate of 11,000 tons.

19           And that's just the numbers of materials that we  
20 can put our hands on. It doesn't include other community  
21 programs, waste reduction, all the other things that are  
22 being done as part of the City's SRRE.

23           So having said all that, I think our only real  
24 concern is -- not accepting the compliance order, but our  
25 real concern is that there needs to be a process for us to

1 address these changes, so that Greenfield doesn't move  
2 forward under the 1016 program with a per capita rate  
3 that's really a handicap. They will never get to the 50  
4 percent diversion rate, if we do not acknowledge these  
5 changes. And I just want to encourage both this Board and  
6 also staff, as we go through our compliance order, that we  
7 address that, because that's very serious. Otherwise,  
8 this City will be back here again in two years making the  
9 same plea to you, that there really needs to be a  
10 correction process in these numbers.

11 Thank you.

12 CHAIRPERSON BROWN: Thank you, Mr. Matthews.

13 Before I -- I don't know if it warrants a  
14 comment, but I will take the words right out of Rosalie's  
15 mouth, before I even turn over to the Committee Chair  
16 whose item this was under, and remind you that the  
17 foundation of 1016 and what is the integral part of that  
18 piece of legislation and that we have continued to tell  
19 jurisdictions, is it's program implementation, not the  
20 number.

21 The number is simply an indicator. But it's the  
22 programs that we look at to evaluate a jurisdiction's  
23 success. And I think that -- as we talked about last  
24 week, we looked at program implementation and what a  
25 tremendous opportunity this would be to work with the



1 staff to work on a plan to help improve program  
2 implementations.

3           So I know the staff -- you know, I will turn to  
4 Howard, if you want to respond at all. But, you know, as  
5 we move through the compliance, it's the programs and how  
6 you move forward more than actual numbers and baselines  
7 and all of that.

8           So Cara, Howard, Rosalie, does anybody have any  
9 additional comments or --

10           BOARD MEMBER MULÉ: I think that it would be  
11 appropriate for staff to respond to the concerns raised.  
12 And then later on we can comment.

13           CHAIRPERSON BROWN: And I appreciate you being  
14 here and ensuring that -- you know, that is on the record  
15 and that we look to that as we go through the compliance  
16 period.

17           So, Howard.

18           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Madam  
19 Chair, I think there's not much more to add to what you  
20 said. Program implementation is going to be the key. But  
21 statute, or 1016, does allow us to look at disposal trends  
22 over time, and so we can take those kinds of things into  
23 account the next time Greenfield is up for review under  
24 its compliance order. And that would be in conjunction  
25 with the Waste Compliance and Mitigation Program staff who

1 are leading that effort.

2 CHAIRPERSON BROWN: Okay. Any questions  
3 regarding this?

4 Member Laird.

5 BOARD MEMBER LAIRD: I guess -- thank you, Madam  
6 Chair. I guess my problem with exchanges is that  
7 everybody understands it and I don't.

8 (Laughter.)

9 BOARD MEMBER LAIRD: Because the Chair made a  
10 very definitive statement and everybody nodded. And then  
11 you said, "Well, that's clear." And so the question is -  
12 is they've raised concerns about the numbers, and the  
13 Chair has said it's program implementation, not the  
14 numbers - is the net import of that, that, in fact, their  
15 concerns are real in terms of concerns about the numbers.  
16 But that's not necessarily what's going to guide where you  
17 head. And you're not going to allow them to be penalized  
18 by the way those numbers are interpreted, but by how they  
19 actually produce in a way that their concern shouldn't be  
20 the concern exactly as they expressed it. Is that what  
21 the situation is?

22 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

23 RAUH: Yes. If I may answer --

24 BOARD MEMBER LAIRD: Great.

25 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

1 RAUH: -- very quickly, that's correct. And as the  
2 speaker indicated, they do accept the need for the  
3 compliance order as I heard. And that compliance order is  
4 directed to improve the performance of their program.  
5 That's what we will be working on.

6 BOARD MEMBER LAIRD: All right. Thank you very  
7 much. That's very helpful.

8 CHAIRPERSON BROWN: Any other questions?

9 BOARD MEMBER MULÉ: Madam Chair, I just want to  
10 reiterate, I think we had the discussion last week, is  
11 that the compliance order is the tool that we use to get  
12 the jurisdiction back on track with their programs. And  
13 so to address Patrick, I think that is the tool that will  
14 give us that process to ensure that not only are your  
15 programs in place, but again the numbers - even though  
16 we're not placing the emphasis on the numbers, 1016 now  
17 places the emphasis on program implementation - the  
18 compliance order is that tool that will allow us to go  
19 through that process, to ensure that everyone has that  
20 comfort level. Again, I think we stated it clearly last  
21 week, we want to work with you so that you are successful.

22 Thank you, Madam Chair.

23 CHAIRPERSON BROWN: Thank you.

24 If there's no further questions from members, can  
25 I have a motion.

1           BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
2 Resolution 2009-28.

3           BOARD MEMBER PETERSEN: Second.

4           CHAIRPERSON BROWN: It's been moved by Member  
5 Mulé and seconded by Member Petersen.

6           Kristen, can you call the roll.

7           EXECUTIVE ASSISTANT GARNER: Kuehl?

8           BOARD MEMBER KUEHL: Aye.

9           EXECUTIVE ASSISTANT GARNER: Laird?

10          BOARD MEMBER LAIRD: Aye.

11          EXECUTIVE ASSISTANT GARNER: Migden?

12          BOARD MEMBER MIGDEN: Aye.

13          EXECUTIVE ASSISTANT GARNER: Mulé?

14          BOARD MEMBER MULÉ: Aye

15          EXECUTIVE ASSISTANT GARNER: Petersen?

16          BOARD MEMBER PETERSEN: Aye.

17          EXECUTIVE ASSISTANT GARNER: Brown?

18          CHAIRPERSON BROWN: Aye.

19          The motion passes.

20          So we will move to next Full board Item No. 9.

21          SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Thank  
22 you, Madam Chair.

23          Item 9, of course, is our discussion of the Draft  
24 Biennial Update of the Five-year Tire Plan. And as you  
25 know, every two years the Board has to adopt a new version

1 of the five-year tire plan. It lays out proposed  
2 expenditures for actually the next five budget years.

3 (Thereupon an overhead presentation was  
4 Presented as follows.)

5 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Staff  
6 has put together this draft. It's been a coordinated  
7 effort between all of the programs and offices at the  
8 Board. And we put this draft together with a focus on  
9 meeting the Board's strategic directives regarding more  
10 rigorous enforcement, cleaning up the tire piles, and  
11 increasing markets and tire diversion. We see the  
12 activities that are outlined in the plan as all linked  
13 together to achieve these objectives.

14 Today, we're seeking your general direction on  
15 whether the proposed funding levels are on target. And  
16 depending on your direction, we would then revise the plan  
17 accordingly, and we will bring it back to you for final  
18 consideration at the May Committee and Board meetings.

19 So basically, we'd like to turn to you to answer  
20 any questions that you might have about specific  
21 activities, and then to discuss with you any potential  
22 changes in the funding levels.

23 Just to start this off, we're just going to post  
24 up the table from page ten, which shows the proposed  
25 expenditures at the macro categorical level, if you will.

1                               --o0o--

2               SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:

3               There's the five elements of enforcement,  
4 cleanup, hauler manifest, research, and market development  
5 on the left, along with administrative and mandatory  
6 contract categories, and then the proposed total  
7 expenditures for those elements across the right year by  
8 year.

9               As you know from last week's presentation and  
10 from some of the more detailed tables in the plan itself,  
11 we can break those down into all the different line  
12 activities and programmatic tasks. So I thought rather  
13 than go through those line by line, as we did last week,  
14 simply ask for your direction or your questions on any of  
15 those major categories or any specific activities within  
16 those.

17              CHAIRPERSON BROWN: Okay. Member Kuehl.

18              BOARD MEMBER KUEHL: I have a couple of sort of  
19 random questions from notes that I made last week and then  
20 in reviewing it.

21              Under the abatement activities, there's a  
22 reduction in the amount from this fiscal year to the fifth  
23 year. And it seemed to me that the testimony or the  
24 presentation was that there was going to be a shift of  
25 emphasis from the State-initiated cleanups to local

1 government cleanup grants. And I wasn't certain why sort  
2 of programmatically that either was a necessary decision  
3 or decision was made.

4 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

5 RAUH: This is Ted Rauh.

6 In response to your question, I think the major  
7 focus here is that we understand fewer larger tire piles  
8 are out there. And basically is we attempted to present  
9 some of the major tire pile activity that the Board's  
10 historically been engaged in will be coming to an end, we  
11 believe, this next year, which means less of a demand for  
12 a large amount in that particular line item.

13 However, we continue to see a need at the local  
14 government level for the small tire-pile activities. And  
15 that's why we're, at least at this point, seeing this fund  
16 shift and -- or proposing this fund shift.

17 BOARD MEMBER KUEHL: So is the -- would this be a  
18 positive aspect for local jurisdictions, because they  
19 would -- they want the grants in order to clean up rather  
20 than having the State do it? Or is there sort of a  
21 threshold hugeness or lack thereof that requires our  
22 involvement as opposed to local cleanup?

23 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

24 RAUH: Well, I think that local governments are certainly  
25 capable of doing the smaller tire-pile situations. We

1 found that most of the larger tire piles both create a  
2 situation of complexity -- engineering complexity --

3 BOARD MEMBER KUEHL: Right. I understand --

4 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

5 RAUH: -- and that's why --

6 BOARD MEMBER KUEHL: Yeah, I understand they're  
7 capable. I guess I'm just trying to figure out, are we  
8 shifting something onto them that they may not necessarily  
9 want and they'd rather have us do it? Or is it just too  
10 small to engage our interest or our whole, you know,  
11 bureaucracy and there's an agreement that the locals can  
12 do it better if we simply give them a grant?

13 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

14 RAUH: I think there's an agreement that they can do it  
15 more efficiently, because these are small tire piles. And  
16 to mobilize State resources for something of that sort  
17 really isn't a cost-effective way to deliver the service.

18 BOARD MEMBER KUEHL: I have a second --

19 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

20 RAUH: And if I could say, we're not forcing it on them.  
21 However, I would not characterize it that way. These are  
22 voluntary programs, obviously, and each local government  
23 has to decide through its public works department or  
24 elsewhere.

25 BOARD MEMBER KUEHL: Right. But we're putting



1 less money into it. So the thought being, I guess, there  
2 would be less need, is that -- that's correct? When you  
3 say we've cleaned up or we will have cleaned up most of  
4 the big ones, we don't need as much money as we're putting  
5 into it this year. And, in addition, the money that we're  
6 going to continue to put into it over the next four years  
7 would go more towards the locals, but we don't need to put  
8 as much money in; is that correct?

9 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

10 RAUH: That's our understanding at this point, yes.

11 CHAIRPERSON BROWN: Let me ask a follow-up.

12 Have you gotten feedback from local jurisdictions  
13 regarding this?

14 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

15 RAUH: Well, I think the feedback that we've gotten is a  
16 continued interest on their part to accept the grant and  
17 to work in this area, as both in the illegal dumping task  
18 force that we -- that the Board has put together continues  
19 to work with, and also through the solicitation on their  
20 part of these grant funds. So, yes.

21 CHAIRPERSON BROWN: Okay.

22 BOARD MEMBER KUEHL: I have a second question in  
23 an unrelated -- I mean, in a different area, which is  
24 under the research money.

25 There's a small item -- not small, in my personal

1 budget, because it's \$300,000; but you know what I mean,  
2 small compared to other grants and loans -- that's  
3 supposed to be allocated to analyze whether low rolling  
4 resistance tires decrease tire life or if there -- and if  
5 there's a true trade-off, if they do decrease tire life,  
6 whether there's better safety. I don't know very much  
7 about low rolling resistance tires. But could somebody  
8 tell me why this is an important aspect for research for  
9 us?

10 MS. FRENCH: Sally French.

11 There's legislation, AB 844, that said that the  
12 Waste Board and the Energy Commission would look at this  
13 issue.

14 BOARD MEMBER KUEHL: Must look at this or may  
15 look at this issue?

16 MS. FRENCH: I think it's a must.

17 BOARD MEMBER KUEHL: Okay.

18 MS. FRENCH: And we have to come jointly together  
19 with a solution. So we're working with the Energy  
20 Commission. Right now, they're holding hearings. And  
21 there's going to be some data sets that they're going to  
22 need. And so we're offering our commitment of some  
23 funding to help that research.

24 BOARD MEMBER KUEHL: So the legislation --  
25 forgive me. I'm certain that I voted for it at three in

1 the morning some time.

2 (Laughter.)

3 BOARD MEMBER KUEHL: The legislation said that  
4 the Legislature was interested in this -- analysis of this  
5 technology, because it was obviously proposed as a good  
6 thing in terms of tire safety.

7 And also I think it was supposed to give you  
8 better mileage, right, because you --

9 CHAIRPERSON BROWN: I was going to say, I think  
10 it's an energy efficiency and tire efficiency measure that  
11 they tasked us to jointly look at with the Energy  
12 Commission. Longer life tires and lower rolling  
13 resistance creates a longevity in tires, if I'm not  
14 correct.

15 BOARD MEMBER KUEHL: Right. But then there was  
16 some question about whether it really worked or not, and  
17 that's what this is about, whether you do actually get  
18 longer tire life with this low resistance or whether there  
19 was some glitch in there and it actually worked the other  
20 way. So that's what this is about?

21 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's  
22 correct. And to analyze those various trade-offs, if you  
23 get longer life tires, is there any decrease in safety or  
24 anything like that? So the legislation did require us to  
25 work with the Energy Commission and come back with a

1 report --

2 BOARD MEMBER KUEHL: And the analysis of our  
3 interest is that if you have a longer tire life, then  
4 you're going to be recycling fewer tires over the course  
5 of X years.

6 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:  
7 Correct. It's a source reduction approach, if  
8 you will.

9 BOARD MEMBER KUEHL: So source reduction and  
10 maybe fuel efficiency. And so how will the analysis -- or  
11 the money be allocated for the analysis? Is it a  
12 competitive, sort of, techy-wonky groups that would apply?

13 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I'm  
14 sorry. Could you repeat the question.

15 BOARD MEMBER KUEHL: Yeah. How would the --

16 CHAIRPERSON BROWN: Is it a contract?

17 BOARD MEMBER KUEHL: How would the contract be  
18 allocated? By them, by us?

19 CHAIRPERSON BROWN: Who's going to perform the  
20 work? Is it in-house or is it contracted out to somebody  
21 with an expertise in this area?

22 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Our  
23 money will be used in an interagency agreement with the  
24 Energy Commission. I'd have to call up our staff to  
25 answer whether the Energy Commission will be doing it

1 in-house or contracting out.

2 BOARD MEMBER KUEHL: Okay. I guess -- you know,  
3 again, it's a small item overall, but it's sort of one of  
4 those -- we had faith in something. We asked it to be  
5 looked at, because we weren't sure if our faith was well  
6 placed. Some other agency is maybe going to be spending  
7 our money. I guess I'd just like to know what our  
8 participation is and who looks at it. Because, you know,  
9 it's not overall a big piece, but it's a chunk of change  
10 that we're putting one place rather than another.

11 So I'd just be interested in what our  
12 participation is in selecting the contractor and sort of  
13 overseeing how they're going to come to their conclusions.  
14 And I realize probably Energy's going to have to say. But  
15 I'm just curious in these joint endeavors, of which we  
16 have a number --

17 CHAIRPERSON BROWN: Right, we do.

18 BOARD MEMBER KUEHL: -- and I think appropriately  
19 so with other -- you know, other boards and entities.

20 CHAIRPERSON BROWN: Since this isn't an  
21 allocation item or a decision for today, if you could get  
22 the information --

23 BOARD MEMBER KUEHL: I can get the information  
24 before May sometime.

25 CHAIRPERSON BROWN: Howard, if you just find out

1 before May how the Energy Commission plans to execute the  
2 follow-up and the timeline, it would be helpful.

3 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We  
4 will. And I just was checking with -- we do not have, you  
5 know, a specific task yet. If this is allocated, then we  
6 would work with the Energy Commission. But we'll go ahead  
7 and have discussions with them so that we can better  
8 answer that.

9 BOARD MEMBER KUEHL: Thank you, Madam Chair.

10 CHAIRPERSON BROWN: Thank you.

11 BOARD MEMBER PETERSEN: Madam Chair?

12 CHAIRPERSON BROWN: Gary.

13 BOARD MEMBER PETERSEN: Sally, just as a  
14 follow-up on this. And this is another off-the-wall here.  
15 Tire dust is a health issue when they go to take a look at  
16 these newer technologies. Is that evaluated at all when  
17 they do these kinds of --

18 MS. FRENCH: By the Energy Commission?

19 BOARD MEMBER PETERSEN: Energy Commission or we  
20 bring in DTSC or whoever does this evaluating. Tire dust,  
21 diesel soot and asbestos dust off the freeways of a  
22 quarter mile either side is a major health hazard. And I  
23 was wondering if this is tied into some of the stuff,  
24 while we're looking at this, to take a look at that.

25 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's

1 another question that we can ask of the Energy Commission.  
2 Certainly, you know, we do have -- part of our one  
3 seventy-five tire fee goes to the Air Board for looking at  
4 the impacts of tire use on public health and safety. And  
5 so we can also examine whether that's being looked at.

6 BOARD MEMBER PETERSEN: Thank you, Howard.

7 CHAIRPERSON BROWN: Particulate matter.

8 Any other questions?

9 Member Kuehl.

10 BOARD MEMBER KUEHL: Thank you, Madam Chair.

11 Just one more. And I really don't even know who  
12 this goes to or how. But we had sort of a brief  
13 conversation in committee about how many tires were going  
14 out of the country. And I wasn't certain in the five-year  
15 tire plan what our piece was about knowing that,  
16 understanding that and -- I understand doing something  
17 about it is, you know, figuring out better things and more  
18 businesses to keep them here. But how does that fit into  
19 our analysis?

20 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's  
21 a great question, Member Kuehl. And it's not explicitly  
22 laid out in the plan. But we do have a number of  
23 activities that are designed to address that.

24 First of all, we have -- and I have to look to  
25 see what page it is. But under our Tire Business

1 Assistance Program, which is an ongoing contract, a very  
2 significant multi-million dollar contract, one of the  
3 ongoing activities is an analysis of market issues, market  
4 material flows. And we are supposed to get preliminary  
5 results from that in -- well, later next month. So that  
6 will be a start.

7           The contractor for that also has other tasks in  
8 that contract that will include a program evaluation. And  
9 we've been talking with them about expanding the market  
10 analysis to include some of the issues that you're  
11 raising, that Mr. Blumenthal raised last week about  
12 regional impacts, looking at some of the movement from  
13 north and south and east and west.

14           That contractor also is looking at some of the  
15 flow of exports to Asia to the extent that they can. We  
16 know that our surveys indicate about two million tires are  
17 exported out of the state a year. But that's probably  
18 subject to some change, depending on better information.

19           So I think under the Tire Business Assistance  
20 Program contract, we have the ability to do more work in  
21 that area and are planning to do so. We'll provide you  
22 the preliminary results as soon as we get them, but then  
23 continue to do more work on that.

24           BOARD MEMBER KUEHL: Yeah, it seems to me that  
25 really we're limited to a carrot and a stick in virtually



1 everything we do about recycling. We hope there'll be  
2 incentives and new businesses and, you know, do all kinds  
3 of positive things in-state. And, at the same time, we  
4 have to say, "You may not, you may not, you may not."  
5 Although, much of that is legislative.

6 So I -- that's all the questions that I had about  
7 things. But I think, as I become better acquainted with  
8 what's going on, I may have more before May.

9 Thank you so much.

10 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

11 RAUH: If I might just add one more bit of information to  
12 your last question.

13 We also have the tire flow study with Mexico  
14 looking at the flow of tires between the two countries.  
15 And that particular study will also have its results  
16 available for the Board in April.

17 BOARD MEMBER PETERSEN: Excuse me, Madam Chair.

18 In evaluating all this in that contract that  
19 we're going to do, are we going to include more longer  
20 term look-see monitoring to see how the flows are going,  
21 where things -- what things are happening? The reason I'm  
22 asking this is because of market development and where we  
23 might take a look at emerging technologies, some of the  
24 carbon black technologies, the low-temperature carbon  
25 black technologies, things that we could do beyond what

1 we're doing now to see what other markets we can build  
2 upon or jump-start here in the State of California.

3 That's what I'm -- and the tire flow helps to  
4 figure out where those tires are going to be and where the  
5 supply's going to be, where these industries might locate.  
6 Like I was talking earlier with Ted about is the storage  
7 of tires for our -- what do you call it?

8 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: -- TDA  
9 civil engineering markets.

10 BOARD MEMBER PETERSEN: In my brain is -- I look  
11 at this like the paper industry when they bale up all this  
12 paper all over the place. And these mills have these low  
13 profile tents, these tents they set up next to paper mills  
14 with negative air flow and fire suppression systems in  
15 them. So therefore, I mean, if it goes up in flames, they  
16 burn down the paper mill. That's the thing.

17 Same kind of technology could be applied here to  
18 tires and having a supply for -- you know, for roads and  
19 things that might want to be -- and they can't get the  
20 material, but we could have a supply of that material.

21 Is that something we're looking at too?

22 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: You  
23 know, that's something that we've looked at more broadly  
24 with respect to all kinds of solid waste. And certainly  
25 in the past, as you know, we've looked at pyrolysis and

1 other technologies related to tires.

2 I think in -- again, under the TBAP - it's the  
3 Tire Business Assistance Program - contract, we have -- a  
4 portion of the monies are set aside for, what we call,  
5 sector-wide activities. Part of it goes to individual  
6 business assistance. But then there's another set of  
7 funds that are for these broader industry-wide activities,  
8 and that's where the market analysis is taking place. And  
9 we're going to be looking at, can we shift some of the  
10 funds within that set of monies to do more of the market  
11 analysis.

12 We'll look -- and I don't have an answer for you  
13 today, Mr. Petersen, but we certainly can look at whether  
14 the market analysis can include some assessment of new  
15 technologies or whether we would need to do some new --  
16 totally new activity related to that. And we can report  
17 back to you prior to May on that and then have it for your  
18 consideration in the May item as well.

19 BOARD MEMBER PETERSEN: Great.

20 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

21 RAUH: And if I might also add, as we mentioned in  
22 committee, we are preparing a white paper looking at  
23 storage options. And we hope that that paper will be all  
24 inclusive, including some of the suggestions you've made,  
25 and looking at all the possible options for both tire

1 materials and used tire -- waste tires themselves how to  
2 best utilize both the facilities we have in existence and  
3 then how to make sure that that product is available when  
4 it's needed.

5 BOARD MEMBER PETERSEN: Thank you, Ted. Thank  
6 you, Howard.

7 CHAIRPERSON BROWN: Thank you.

8 Member Kuehl.

9 BOARD MEMBER KUEHL: Just one more question on  
10 the market development five-year budget because it drops  
11 precipitously in '12 and '13, and '13 and '14. And I  
12 think the presentation was because we expected there would  
13 be more establishment of these markets and we wouldn't  
14 need to be promoting them as much.

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:

16 Actually, the reason why there's such a drop  
17 in -- and it's shown up there on that slide -- from the  
18 first three years to the last two years is because of the  
19 proposed funding in the Governor's budget, the additional  
20 \$8.6 million is only proposed for three years, so we would  
21 only have expenditure authority for that amount.

22 BOARD MEMBER KUEHL: Oh, I see.

23 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: So  
24 it's not a suggestion that additional market development  
25 will not be needed at that time.

1           BOARD MEMBER KUEHL: Okay. So it's just a  
2 three-year spending authority. And we may be able to  
3 convince a governor to continue that or increase it.

4           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:  
5 Correct.

6           BOARD MEMBER KUEHL: Because I think with the  
7 credit crunch, which is bound to go on and on at least for  
8 the next couple years, it's going to be really hard for  
9 businesses to establish themselves and really get a  
10 foothold I think without some help.

11           Thank you, Madam Chair.

12           CHAIRPERSON BROWN: Thank you.

13           Plus, we'll have that repayment of that loan by  
14 then. So we'll have to look at how to expend that.

15           BOARD MEMBER LAIRD: Well, the tooth fairy will  
16 be arriving.

17           (Laughter.)

18           CHAIRPERSON BROWN: I still believe in the tooth  
19 fairy.

20           (Laughter.)

21           CHAIRPERSON BROWN: At least my kids do.

22           We do --

23           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: And,  
24 Madam Chair -- oh, I'm sorry.

25           CHAIRPERSON BROWN: Yeah.

1           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I  
2 would just like to remind the Board that a lot of these --  
3 and I can distribute this report to you. The May 2008  
4 report to the Legislature does outline much more than the  
5 8.6 million, including, for example, tire-derived  
6 aggregate grants and other activities related to market  
7 development. So while that may not be the definitive  
8 answer, there are a lot of other ideas on the table that  
9 the Board's considered.

10           CHAIRPERSON BROWN: Right. And the fun part  
11 about the five-year tire plan is it gets revised every two  
12 years. So we'll see it again before '12 and '13.

13           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Could  
14 you define "fun"?

15           (Laughter.)

16           CHAIRPERSON BROWN: We do have one speaker.

17           Mr. Terry Leveille.

18           MR. LEVEILLE: Madam Chair and Board members, I'm  
19 Terry Leveille with TL & Associates, and representing a  
20 variety of stakeholders and good government. That's what  
21 I like to say.

22           Board Member Kuehl raised a number of questions  
23 dealing with the California Energy Commission. And that  
24 AB 844 is the Nation Bill from 1993 -- or 2003. That bill  
25 was -- basically it's morphed into -- since I've been at

1 many of the CEC meetings, it's morphed into more of a  
2 marketing and rating effort to rate tires on the basis of  
3 energy efficiency, fuel efficiency, and then putting  
4 possibly like a star system -- an Energy Star system for  
5 tire dealers to show their customers, so that the  
6 customers can select, if they choose, a more  
7 fuel-efficient and energy-efficient tire.

8           Now, one of the things that's been found in a  
9 variety of studies over the years is that more  
10 fuel-efficient tires tend to not last as long. And one of  
11 the Board's main goals is to reduce the number of tires  
12 that go to landfills and reduce the tires that -- or  
13 increase the longevity of tires that customers buy. And  
14 so these kinds of things sort of are at odds with one  
15 another. You've got one agency pushing one effort, which  
16 is to try to make customers buy tires with greater  
17 longevity, and another agency that's looking at tires with  
18 possibly shorter longevity. And I think that that was the  
19 genesis of this study.

20           And to add to the Energy Commission's efforts  
21 to -- as they develop their rating system and their fuel  
22 efficiency, it should be also noted that the Feds are also  
23 developing a rating system and fuel efficiency at the same  
24 time. And so California and the Energy Commission is  
25 working closely with the federal government and so that

1 there won't be one state, California, that develops one  
2 star system and every other state developing another.

3 BOARD MEMBER KUEHL: But, Mr. Leveille -- and I  
4 really very much always appreciate your analyses,  
5 especially the places where you quote yourself by name. I  
6 like that.

7 MR. LEVEILLE: Well, I try to be as objective as  
8 possible.

9 BOARD MEMBER KUEHL: I think that's very  
10 objective.

11 (Laughter.)

12 MR. LEVEILLE: As you well know, I'm sort of  
13 schizophrenic, in that I do represent some interests, but  
14 I also represent the general public with my tire report.

15 BOARD MEMBER KUEHL: And I think it's an  
16 extremely valuable work. But I guess my -- my question  
17 though, for your opinion, because I think it affects the  
18 way the Board might -- and again maybe we want to give  
19 some direction to staff. There's a lot of attention being  
20 paid to fuel efficiency. Consumers think a lot about fuel  
21 efficiency. "What can I do so I don't have to spend as  
22 much money at the pump?" There's not really a lot of push  
23 about how many times in a decade you change your tires,  
24 because it seems like something I don't even think about.  
25 And I'm assuming, since I obviously am just like everybody



1 else -- you know, I'm worried more about the gas.

2           If the Energy Commission is rating these tires,  
3 based on how much fuel efficiency they give it, then it  
4 really falls to us to go, "Oh, but wait," because somehow  
5 you may be getting better gas mileage, but you're going to  
6 have to replace your tires more often possibly.

7           So I guess I'm wondering -- I don't even know if  
8 it's a direction to the staff. But as we go for our  
9 report, who's going to be advocating, if it's not us, for  
10 more attention to be paid to the potential downside of  
11 fuel-efficient tires in terms of their need to be replaced  
12 more often, if that's what the research showed?

13           MR. LEVEILLE: This is also -- oh, excuse me.

14           CHAIRPERSON BROWN: I was going to say excellent  
15 point. Can we add a rating system for tire life onto the  
16 fuel efficiency? You know, if they're going to study fuel  
17 efficiency, why can't we, you know, give a 1, 2 or 3 star  
18 to tire life, you know, and let people evaluate.

19           MR. LEVEILLE: Actually, this is what the Energy  
20 Commission is wrestling with right now. Because the tire  
21 industry, for the most part, has been -- the  
22 manufacturers, the RMA, have been very involved in  
23 developing and working with the Energy Commission on this.  
24 And, you know, what we're seeing is that there are  
25 trade-offs when you buy a tire. Some tires, they'll last

1 longer, but they may not be as fuel efficient. There's  
2 also issue of safety or performance that comes into play.  
3 And it's not a cut-and-dried issue.

4 CHAIRPERSON BROWN: And maintenance.

5 MR. LEVEILLE: And certainly we've got some  
6 really good public goods in a variety of different ways  
7 you can look at it. So, you know, it's one --

8 CHAIRPERSON BROWN: It's also maintenance though.  
9 I mean we can't, you know, sell a consumer a tire and say  
10 it's going to last four years and not -- you know, the  
11 information and the public awareness that goes along with,  
12 it has to be properly inflated and it needs to be checked  
13 monthly and weather has a bearing on that and --

14 MR. LEVEILLE: And that's really the -- the  
15 Board's efforts have been really good. And in terms of  
16 educating or -- and I know they've got some contracts  
17 coming up about educating the public about tire  
18 sustainability, making sure they're inflated, making sure  
19 they're rotated, et cetera. And that's really been most  
20 of the Board's efforts to this far.

21 It really hasn't been focused on, you know,  
22 buying tires that are longer lasting. Although I think  
23 that one of the issues that the study was going to look at  
24 was to see what the interplay is between that longer  
25 lasting tires and fuel-efficient tires.

1           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:   Madam?

2           CHAIRPERSON BROWN:   Yes, Howard.

3           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:   I'm

4   sorry, Terry.

5           What I'd like to suggest is that we find out what  
6   the status of the work at the Energy Commission is.   I  
7   know that we've had staff at some of the meetings, but we  
8   haven't had a particular, you know, point person.   We've  
9   had these kinds of discussions.   If we can find out what  
10   the status is, what the intent of -- current intent of the  
11   Energy Commission is, where they're headed on these  
12   issues, provide you a memo and, you know, a couple weeks  
13   on that, and then that can inform your further discussion  
14   on this issue.

15          BOARD MEMBER KUEHL:   Yeah, I just -- I guess --

16          CHAIRPERSON BROWN:   Well, clearly, if the money's  
17   not spent, they couldn't have started the study.

18          BOARD MEMBER KUEHL:   Well, it's such a small item  
19   and I'm really sorry to take so much time with it.   But I  
20   simply wanted to suggest that we need to continue to be  
21   the advocates for attention being paid to the longevity of  
22   tires as well, so that it's not just about fuel  
23   efficiency, and, "Oh, by the way, you might have to  
24   replace your tires more often."

25          CHAIRPERSON BROWN:   Well, but I think it's an

1 excellent point. And with our money goes along our  
2 priorities in the study, which is also source reduction.  
3 And we're constantly struggling with how to advance the  
4 issue of source reduction, which is the highest part of  
5 our hierarchy. And if we're spending money to the Energy  
6 Commission in order to do a joint study, we should have a  
7 work product out of it that we can utilize towards source  
8 reduction.

9 MR. LEVEILLE: I think that's great.

10 CHAIRPERSON BROWN: I'm sure you had more than  
11 just that item.

12 MR. LEVEILLE: Well, that -- no, but that, you  
13 know, certainly raised, you know, an interest, because --  
14 since I have been involved in some of those discussions at  
15 the Energy Commission.

16 And then Board Member Petersen raised the issue  
17 of the tire dust. Of course, that was the impetus for the  
18 Air Board to tag on their 75 cents on the sale of every  
19 tire. But their efforts are directed toward taking that  
20 money and purchasing or converting diesel buses into  
21 cleaner running diesel -- into cleaner running buses --  
22 school buses and the like. I think it's called the Moyer  
23 Program. And, you know, so it's a valuable thing.

24 I don't know if anybody's really focused on how  
25 actively they're working that money or not or if there's a

1 fund balance or something like that. But I know that that  
2 was the interest. And I don't think that there has been  
3 any discussion about that, as far as the Board's  
4 concerned, regarding the health effects of --

5 BOARD MEMBER PETERSEN: So, Terry, you'll bird  
6 dog this and let us know what's going on over there,  
7 right?

8 (Laughter.)

9 MR. LEVEILLE: Well, I've been asked about that  
10 before by staff. And I kind of like this Board here. You  
11 know, the Air Board, you know, they're a strange  
12 character.

13 BOARD MEMBER PETERSEN: We love you, Terry, but  
14 we need your help.

15 MR. LEVEILLE: Okay. As well as far as -- all  
16 right. Thank you.

17 As far as the five-year plan, the only thing that  
18 sticks out, in my mind once again, is the one I raised in  
19 committee the other day. And that had to do with the Tire  
20 Equipment Loan Program. I think it's really good for the  
21 Board to have a policy to emphasize tire-derived  
22 aggregate, because this is certainly -- you know, the  
23 opportunity for using significant amounts of scrap tires  
24 is unlimited.

25 But I don't think that it really belongs -- I

1 mean, you've got a lot of different programs. Once again,  
2 I would encourage a TDA grant program. I think that would  
3 be great. But I don't think it really fits in this one.  
4 I think what you're doing is -- you've got about three  
5 companies that can make tire-derived aggregate in  
6 California. These companies could also, if given -- or  
7 given the opportunity to get an equipment grant, they  
8 could also increase their processing of tire-derived  
9 aggregate. I don't think you should go after companies  
10 that aren't making it at the expense of ones that are and  
11 create competition that, you know, may drive some of the  
12 ones that are out of the business altogether.

13 I know what the Board's trying to do, is trying  
14 to keep the price low. But right now, tire-derived  
15 aggregate is lower than the alternative. And I think more  
16 than anything, the publicity through your contracts and  
17 the like to local governments, to public works officials  
18 about the benefits of tire-derived aggregate and the costs  
19 of tire-derived aggregate should be sufficient. I don't  
20 think it really needs to be prioritized in this particular  
21 grant program -- or this particular loan program.

22 That being said, you know, I think that it'll be  
23 interesting to see how many tire-derived -- or tire  
24 recyclers take advantage of the loan program. One might  
25 even consider -- I know it's along the lines of the RMDZ

1 program. But one might consider, if you see support  
2 lagging for it from the community, of actually lowering  
3 the interest rates, which right now are by -- the RMDZ  
4 program are -- the lowest you can get is about a four  
5 percent loan.

6 So if there's some flexibility down the line, you  
7 know, I think that stakeholders would like to see, you  
8 know, dropping that interest rate down to, you know, the  
9 two percent level or so.

10 CHAIRPERSON BROWN: Actually, the interest rate's  
11 set by the Committee -- the Loan Committee. It's not set  
12 by the Board.

13 I'm going to let you answer his question. But I  
14 will say I think that the Board's talked about TDA as a  
15 priority because the amount of tires that are utilized.  
16 For me personally, it's not the price. It's about getting  
17 more processing capacity in the state. So it's not to try  
18 to keep the price low. It's to try and increase the  
19 processing capacity. But given that, personally, you  
20 know, I can see how you could look at it the other way,  
21 and I appreciate your comments. So I'm going to turn it  
22 over to Howard and then see if there's any other Board  
23 members that have any questions.

24 MR. LEVEILLE: Well, likewise. Yeah, as I say,  
25 there are TDA processors right now that would maybe take

1 out an equipment loan, but --

2 CHAIRPERSON BROWN: Well, and I think that what  
3 we talked about at the committee is, where is the issue?  
4 Is it supply? Is it the cost? If we provided grants to  
5 local jurisdictions to use it, would that increase the  
6 utilization like in RAC or do we -- I mean, we're -- you  
7 know, I think we're still -- it's an unknown a little bit.  
8 That's what's keeping Stacy in business. I thought I saw  
9 her --

10 MR. LEVEILLE: Or is it storage issues?

11 CHAIRPERSON BROWN: And storage issues, which Ted  
12 is addressing as well. So I think we're trying to tackle  
13 it from all fronts to try and get the product moving,  
14 but -- Howard.

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Madam  
16 Chair, your first point was my first point, that, you  
17 know, one of the issues is the availability of TDA in a  
18 location that is relatively close to where a big project  
19 is. So we want to spur the development of more TDA  
20 processing.

21 But I think, more broadly, a preference does not  
22 mean that other processors are excluded from the program.  
23 Just as we have in the RMDZ loan program, the Board has  
24 preferences for things like organic materials or for paper  
25 and C&D materials. But that doesn't preclude, say, a



1 glass beneficiary from coming in for a loan.

2           So any business that is interested in a tire  
3 equipment loan can come in. It's usually first come,  
4 first serve. If we're in the fortunate situation of being  
5 oversubscribed, that gives us more weight to go back to  
6 the Legislature for additional expenditure authority.

7           So it could be a priority -- a scoring issue.  
8 You get a few more points, if there's a competitive  
9 situation. But this is really first come, first serve.  
10 We'd like to see TDA processors, but we're encouraging all  
11 companies to come in.

12           CHAIRPERSON BROWN: So we can take Mr. Leveille's  
13 concerns, noodle it over the next few months, look at  
14 whether that prioritization needs to be in the five-year  
15 tire plan or in some sort of a scoring criteria that comes  
16 out later, and take a look at it that way.

17           Any questions?

18           Member Mulé.

19           BOARD MEMBER MULÉ: Thank you, Madam Chair.  
20 We've been discussing TDA quite a bit, and so I just have  
21 a question about the TDA grant program to the local  
22 governments. I know that we had discussed it back in  
23 mid-2008 via the report to the Legislature. So I'm just  
24 wondering -- I was under the impression -- or I recall  
25 that we were looking at including that in this version of

1 the five-year tire plan. And I know that it's kind of  
2 hidden, as Howard pointed out to me yesterday, in terms of  
3 doing pilot programs with local government and CalTrans.  
4 But I was just wondering if -- what are we doing to pursue  
5 or to implement any type of local grant program for TDA  
6 projects?

7 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Member  
8 Mulé, you are absolutely correct. We, as staff, think  
9 that moving in the direction of a TDA grant program is  
10 probably the way to go. Whether we're absolutely ready  
11 and whether there's enough demand for it, we're probably  
12 on that cusp. And that's why the Board included that  
13 suggestion of a TDA grant program in the report to the  
14 Legislature last year. We would need the authority to do  
15 that, any expenditure authority to do that.

16 So it was not included in the Governor's proposed  
17 budget. But it's certainly something that could be  
18 pursued through the budget process and further legislation  
19 to look at a TDA grant program.

20 In lieu of that, we do have our construction  
21 contract, our expert in construction management contract  
22 related to civil engineering applications. And that's --  
23 I don't recall the exact funding, but it's multi-million  
24 dollars. And that's where we have been able to fund  
25 projects like the highway construction projects in Sonoma

1 and Mendocino and our work on the BART noise attenuation,  
2 Dixon Landing and other projects, which we've needed to  
3 build up that understanding among the public works  
4 engineers and the local jurisdictions, that this is a  
5 viable alternative given sufficient engineering controls  
6 and design work.

7           So we've been ramping it up. I think demand is  
8 increasing. And that's why we think we're probably close  
9 to or ready for a grant program, but we'll need that  
10 additional authority.

11           BOARD MEMBER MULÉ: Okay. So I would like to see  
12 us pursue that in the next budget cycle. I just think  
13 it's important that we really make that a priority for  
14 this Board.

15           Thank you.

16           CHAIRPERSON BROWN: Thank you, Member Mulé.

17           Any other questions?

18           Okay. This is just a discussion item. So I  
19 think we've gotten some great feedback, direction to work  
20 more closely with the CEC to try and get something out of  
21 our investment. We'll look at the TDA preference and a  
22 few other items, and then we'll look at this again in May.

23           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Great.  
24 Thank you very much for your direction and your support.

25           CHAIRPERSON BROWN: Thank you.

1           Okay. Now, we have -- let me just check. We've  
2 got three more items for the full Board. We can take up  
3 one more item and then take a break.

4           Okay. Let's go to Item 10, which is the  
5 Collection and Proper Disposal of Pharmaceutical Waste.

6           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Okay,  
7 Madam Chair. Howard Levenson once again. And I do think  
8 items 12 and 13 should be pretty short as well. So  
9 hopefully I'll be correct on that.

10           Item 10 concerns our pharmaceuticals -- our  
11 ongoing pharmaceuticals discussion.

12           Today, we are seeking your consideration of  
13 revisions to the model criteria and procedures for the  
14 collection of pharmaceuticals as required by SB 966. As  
15 you all know, the Board adopted interim criteria and  
16 procedures last November in order to meet the statutory  
17 deadline of December 1st. And you directed us to have a  
18 workshop with stakeholders, which we did. And we reported  
19 back last week on some potential -- or proposed revisions  
20 based on that stakeholder workshop.

21           We explained last week those comments that we got  
22 from stakeholders that we can't address because of  
23 statutory provisions that are either our code or primarily  
24 Board of Pharmacy and Department of Public Health Code.

25           So on Monday, I believe -- Monday we posted a

1 revision of the criteria and procedures that had some  
2 proposed revisions based on last week's committee meeting.  
3 And those are for your consideration today. And we can  
4 quickly walk through those. But we did get some  
5 additional comments in writing -- two in writing and one  
6 this morning -- either subsequent to the Committee meeting  
7 or this morning. And we have a few potential more changes  
8 that we can walk you through to respond to those comments.

9           So with your indulgence, it won't take you very  
10 long, but Fernando can walk you through the two or three  
11 sets of comments that we got and some very specific  
12 changes. And I believe there's one -- at least one  
13 stakeholder from the Public Health Department who wants to  
14 speak as well to this.

15           CHAIRPERSON BROWN: I don't have a speaker slip  
16 for that person.

17           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Maybe  
18 Fernando has those comments. So we can deal with it that  
19 way.

20           CHAIRPERSON BROWN: Okay. I do have a speaker,  
21 but I don't have that person.

22           Okay. Fernando.

23           RESEARCH AND APPLIED TECHNOLOGY BRANCH MANAGER  
24 BERTON: Yes. Good morning, Board members. Fernando  
25 Berton from the Research and Applied Technology Branch.

1 And the two written comment letters that we got were from  
2 the Yuba-Sutter Regional Waste Management Authority and  
3 then written comments from the California Department of  
4 Public Health.

5 A representative is here in case there are  
6 questions of his comments.

7 But specifically from the Regional Waste  
8 Management Authority, it deals specifically with mail-back  
9 program, two items. Item No. 4 and Item No. 6 in that  
10 section. And this would be on page 15 of Attachment 1 in  
11 your Board packet. We can certainly accommodate their  
12 comments by making those two sections, number four and  
13 number six, permissive rather than prescriptive. So it  
14 would be -- you know, may provide postage-paid envelopes  
15 rather than "shall provide". Same thing with number six,  
16 operators may advertise rather than "shall advertise".

17 CHAIRPERSON BROWN: Since this is a model  
18 program, I think that makes sense, without objection from  
19 any Board members, to make it permissive.

20 BOARD MEMBER MULÉ: Yes.

21 RESEARCH AND APPLIED TECHNOLOGY BRANCH MANAGER  
22 BERTON: And one thing to keep in mind is nothing in these  
23 criteria and procedures precludes an operator from making  
24 things more prescriptive, which actually would lead to a  
25 separate comment that you'll hear from the stakeholder.

1           With regard to the California Department of  
2 Public Health, we did receive some specific language that  
3 we passed out to you. This would be regarding signage  
4 sections on page -- I think page four, as -- yeah, page  
5 four and page ten in the revised criteria. And really  
6 what they would want to add is one sentence dealing with  
7 the fact that any commingled waste would be handled as  
8 medical or hazardous waste. So that there's no confusion,  
9 that would be considered a non-hazardous waste.

10           CHAIRPERSON BROWN: This is the definitional  
11 consideration that you spoke, Kelvin, about specifically  
12 at our Committee. And we approved that change, so that  
13 there wasn't a classification problem.

14           RESEARCH AND APPLIED TECHNOLOGY BRANCH MANAGER  
15 BERTON: Yes. And so their insertion of the sentence  
16 would just provide further clarification. And we believe  
17 it's a very good clarification to include. So we'd like  
18 to include that as well.

19           CHAIRPERSON BROWN: Okay. Any objection?

20           Okay.

21           RESEARCH AND APPLIED TECHNOLOGY BRANCH MANAGER  
22 BERTON: And then I did receive an Email comment this  
23 morning from Mr. Larry Sweetser representing the Rural  
24 Counties JPA. And I believe he's a speaker who would like  
25 to talk.

1           CHAIRPERSON BROWN: Yes, Larry, would you like to  
2 come forward.

3           MR. SWEETSER: Good morning, Board members.  
4 Larry Sweetser on behalf of the Rural Counties  
5 Environmental Services Joint Powers Authority. And I will  
6 make it quick.

7           I do want to thank staff for their efforts in  
8 making the changes. It's come a long way from where it  
9 was, especially recently. That's where they've been  
10 helpful. It's a lot more realistic in terms of actually  
11 doing this with the programs I work with. Not perfect, by  
12 any means. But I think it's gotten to the point that we  
13 could move on with it. Especially given all the competing  
14 and conflicting agencies and other interests involved in  
15 this, I think we've got something I think we can work  
16 with.

17           I do want to guaranty to you that just because  
18 there's not a lot of other speakers from local government,  
19 that there's not a lack of interest on their part.  
20 They're very interested. Just especially in these times,  
21 many of them are finding the time to deal with these  
22 issues very difficult, and travel is almost prohibited in  
23 many jurisdictions. So that's why a lot of them aren't  
24 here. But a lot of these concerns do come from them as  
25 well.



1           And I'm sure many of us would like more time.

2   But at this point, I think we can move on.

3           There are two requests that I would have. One is  
4   that, since this guidance is limited in many ways to the  
5   statutes that exist with the different agencies, that the  
6   Board continue to work with others on seeking those  
7   legislative changes to make it far easier to work with  
8   these programs.

9           The second is maybe in the guidance document that  
10   goes along with the model program, there be some  
11   clarification on how this model is supposed to be used.  
12   Because in the statute, it does have explicit statements  
13   in there about how this program -- if you do this model  
14   program, you are in compliance with all the statutes and  
15   others.

16           That raises concerns to me, in that if we do  
17   anything different, we're always forced in that situation  
18   of trying to justify why that difference is in compliance.

19           The Email exchange that Fernando and I had was on  
20   use of the word "should" in a number of the sections. One  
21   in particular dealt with Section six , page four. To me,  
22   it was a little unclear when it said that the pharmacies  
23   should be -- or the pharmaceuticals should be emptied from  
24   the original container. To me, that raises a lot of  
25   safety security issues at a program -- and I know it's

1 intended for the customer to do it, not the facility. And  
2 the use of the word "should" is permissive. Although I do  
3 remember my parents telling me I should do something. And  
4 if I didn't, I think I knew what the consequences would  
5 be. So it seems to be more mandatory than the use of the  
6 word "may" or something like that.

7           So in the guidance document, if you can clarify  
8 that this is not an absolute mandate for a number of these  
9 issues.

10           So with that, I think we can just clarify some of  
11 that confusion in the guidance. That would go a long way  
12 to helping us implement the programs.

13           And thank you for consideration.

14           CHAIRPERSON BROWN: Thank you, Larry. And thank  
15 you for your participation. I know it's been a long  
16 process for all the stakeholders involved.

17           And, Kelvin, thank you very much for being here  
18 again and for your comments. And I'll turn it over to  
19 Howard. I think Howard was going to --

20           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Sure.

21           In terms of Larry's last comment, I think it's  
22 important to note that the bill doesn't provide the Board  
23 with any real enforcement authority. You know, we will  
24 look at programs that are implemented and assess how well  
25 they match up with the criteria and procedures and report

1 that to the Legislature. You know, any enforcement that  
2 might take place would be under other code sections by the  
3 Board of Pharmacy and the Department of Public Health. I  
4 don't know what their resources are for looking at this,  
5 but I don't think that's something that is really germane  
6 to a public discussion of the criteria and procedures.

7 We will evaluate, as best we can, how close  
8 programs come and then make subsequent recommendations to  
9 the Legislature.

10 The legislative issues that are really the core  
11 of stakeholders' concerns are outlined in the item. And I  
12 think, as Larry said, folks are interested in working on  
13 that particular -- those issues.

14 CHAIRPERSON BROWN: Thank you, Howard.

15 And because the Board has been known for this, we  
16 work with our jurisdictions to help them implement  
17 programs. And we'll continue to do so and assist them in  
18 doing that.

19 And we happen to know that there's legislation  
20 pending, which will move this issue even farther down the  
21 road.

22 Member Laird.

23 BOARD MEMBER LAIRD: Madam Chair, to that point,  
24 I wanted to make maybe a global comment, because we were  
25 really jammed for time in the Committee hearing. And it's

1 interesting because I think -- Member Kuehl said earlier  
2 that she was sure she had voted for one of the bills that  
3 established one of these programs at three in the morning.  
4 I think I voted for this one in the light of day after a  
5 good night's sleep. Because it is a clear problem. And  
6 the Senator that introduced this is my Senator. And it  
7 was through his "There Ought To Be A Law" Program a  
8 constituent suggested it. And I started hearing about it  
9 from a lot of people bordering a national marine  
10 sanctuary, where there are protected species and  
11 pharmaceuticals were flowing into this sanctuary and it  
12 was a big issue.

13 But having said that, I think the staff has been  
14 struggling with trying to implement a statute that sort of  
15 requires things in all these different venues and didn't  
16 give sort of global flexibility to try to deal with it.  
17 And some of the interesting ones for me were the issue of  
18 incentives. If you look at what is the issue -- everybody  
19 is so concerned with vetting this successfully with all  
20 the stakeholders, that when it actually goes out as a  
21 program, what's the incentive for a member of the public  
22 to participate? And there's not really marketing in this.  
23 There's not really some fiscal incentive. And it is a  
24 statutory issue. It's not that the staff is failing or  
25 the Board is failing. That kind of tool didn't come as

1 part of the legislation.

2           And then you have to ask, as I would ask as a  
3 Board member or as a legislator, well, how do you measure  
4 whether you're successful in this? That's another thing  
5 that is very unclear. There's no mechanism for measuring  
6 poundage of pharmaceuticals turned in or the nature of it  
7 or anything. And so here we have no incentives for people  
8 to participate and we have no measurement to decide  
9 whether it's successful at the end.

10           And the issue was already raised about  
11 enforcement. And because of the way it has to be set up,  
12 if part of this or the bulk of this gets designated as  
13 medical waste, then the method of disposal is  
14 incineration. And we are figuring out a way to move a lot  
15 more things into incineration, which is not necessarily  
16 where we, on a policy level, wish to move waste in the  
17 State.

18           So I would just make these as global comments,  
19 because as was mentioned, there is follow-up legislation  
20 that's been introduced. And I think that the author can  
21 take these comments and the comments of the stakeholders  
22 into account in trying to see if there is a way to address  
23 these. And I know a portion of them are, by nature, a  
24 budget issue. And that is not something that's going to  
25 get addressed in the short-term future. There's not going

1 to be additional positions given by legislation to deal  
2 with additional marketing or enforcement.

3           And so it just means that we have some real  
4 thorny issues. We're not sure that there's a mechanism  
5 for addressing them. But I think the staff needs to be  
6 saluted for doing its best in implementing a statute  
7 that's imperfect, and that we just need to, as a board,  
8 identify these issues and point the capital to them. And  
9 to the best extent they can, they need to be addressed in  
10 the follow-up legislation.

11           CHAIRPERSON BROWN: Excellent point. And I know  
12 we have offered to provide technical assistance, and the  
13 information in this will be part of that. I think before  
14 our new Board members were here, in the initial hearing of  
15 this to get the study going, we did talk at length about  
16 the Board's initiative on producer responsibility or  
17 manufacturer participation in a broader program that looks  
18 at producer responsibility, for some participation from  
19 the manufacturers for take-backs. And, you know, with our  
20 strategic directives, we'll be providing the author with  
21 that kind of language as well for consideration.

22           And I think the other issue that we brought up  
23 initially was, you know, this Board has no related  
24 authority over many of the issues in this legislation.  
25 And yet because we have expertise in developing model

1 programs, working with jurisdictions and HHW facilities,  
2 we were tasked with the study and the follow-up for the  
3 Legislature.

4           So I think you raise some excellent points and  
5 probably will look to your expertise to work with a member  
6 in our legislative office to help with some of the  
7 feedback.

8           LEGISLATIVE DIRECTOR HUBER: Yeah. And we  
9 actually have been meeting with staff. Actually, Carol  
10 Mortensen is probably listening to this hearing right now  
11 and attended the Committee hearing last week. And so  
12 we've had two meetings already where she's actually come  
13 over here. They have a meeting on Thursday that we can  
14 add this item to it. I do know she's looking at the  
15 current statute at the Department of Public Health and  
16 where they have, you know, level of jurisdiction on  
17 incentives and what businesses are required. And SB 26 is  
18 looking at cleanup language from SB 966 and then any  
19 additional language that needs to be added for  
20 clarification.

21           So they are looking at it, definitely.

22           CHAIRPERSON BROWN: Thank you, Elizabeth.

23           Questions?

24           Member Kuehl.

25           BOARD MEMBER KUEHL: Well, I read this all over

1 again last night. And I find that I -- you know, of  
2 course, I always want to praise the staff for all the work  
3 they did. And I think it's very good work. But I have  
4 grave doubts about this whole thing, in terms of the  
5 identification of how many different kinds of facilities  
6 can be allowed to collect these things.

7 I think down the line it's going to be a big  
8 mistake. I'm not sure where to go with this, because I've  
9 been kind of trying to think about it. And, of course,  
10 you know, coming in new and you've been working on it a  
11 great -- much longer than I've been on the Board. But if  
12 we are going to propose this as the Board's approved model  
13 program, I think there's really a problem. The letter  
14 from pharmacists indicating the potential for misuse of  
15 drugs that come back to your pharmacy. I mean, there  
16 are -- how many pharmacies are there in the state? Every  
17 one of them could be a collection point. Doctors'  
18 offices. What are called the health care collection  
19 sites. I think, frankly, it's too many.

20 And some of the issues about what is, you know,  
21 required in terms of what you do before you dispose of  
22 these things, what the consumer does, I take my name off  
23 of the container, but not the name of the drug. I'm not  
24 going to know to do that.

25 For me, I wish there -- obviously, I think it's a



1 problem, but I wish there was a way that every city or  
2 town or whatever could be given the money to establish a  
3 disposal facility, period. And it wouldn't be pharmacies  
4 and it wouldn't be doctors. And nobody would be judging  
5 what kind of pills we're putting back there for -- or, you  
6 know, putting in to be destroyed.

7           Now, I'm certain that people would say there are  
8 a hundred things wrong with that as well. But I think  
9 this is a very dangerous issue, not by virtue of what has  
10 been developed, but just overall. And I know that you  
11 guys have wrestled with this and listened to what  
12 everybody thought should be done.

13           So I guess my -- I'm really -- you know,  
14 obviously, I want to be a good Board member, go along with  
15 what everybody thinks is right, support all of the  
16 research, et cetera. But I just have some grave doubts  
17 about the complexity of this model, even though we have no  
18 authority to say, "You must do this." We've only been  
19 asked to put out our best guess about how it should be  
20 done. And, frankly, this -- you know, I just realized  
21 this morning. And so, I'm sorry, I should have called  
22 people and said, "I don't think this represents my best  
23 guess about how this should be done."

24           And so I'd be interested to know what the  
25 feedback was from medical personnel. Do they really want

1 to help with dumping pills into a different container? I  
2 understand the problem about the containers themselves.  
3 How are you going to separate the containers, which must  
4 be disposed in a different way, if at all, because  
5 they're -- you know, they'll last for 9,000 years. Or do  
6 we want to do source reduction in terms of what kind of  
7 containers they're now going to be using for pills?  
8 Because now we're going to want to take them back and you  
9 should be able to eat them.

10 I mean, you know, I --

11 (Laughter.)

12 BOARD MEMBER KUEHL: -- I really don't know.

13 CHAIRPERSON BROWN: Well, I --

14 BOARD MEMBER KUEHL: I just had a lot of  
15 questions about the complexity of the model program.

16 CHAIRPERSON BROWN: Well, I was going to say I  
17 think raised some excellent issues that the Board needs  
18 to, you know, think about. And we are here to vote  
19 independently what we think is right and good. So, you  
20 know, I don't have a problem with you raising the issues.  
21 I appreciate the fact that you are raising the issues.  
22 And Gary had some comments.

23 Let me ask one quick question, which may guide  
24 our -- did the legislation specifically ask for a  
25 board-adopted program or to develop a program? Can it be

1 issued as a guidance document that is not Board approved  
2 or Board -- I mean, what is our latitude in providing this  
3 document? Because really it's -- what does the  
4 legislation require?

5 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I  
6 don't have the exact language. But it did require us to  
7 establish -- the Board establish criteria and procedures  
8 for the implementation of the model programs. That  
9 doesn't mean that staff can't do that. It can be directed  
10 to do that.

11 I certainly -- I don't think that we would  
12 necessarily disagree with much of what Member Kuehl has  
13 said.

14 CHAIRPERSON BROWN: I agree.

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I  
16 think that's the dilemma that we're in. We've had, you  
17 know, about a year's worth of working sessions with many,  
18 many different stakeholders who've raised similar  
19 concerns. And I think that's why we've addressed the  
20 legislative issues in the item. And I think another  
21 opportunity to address that will be in our report back to  
22 the Legislature later next year, where we can raise these  
23 as well, unless there's some other interim legislative  
24 action. But I think we're -- we're pretty stuck in terms  
25 of staff being able to do anything more on this.

1           CHAIRPERSON BROWN: Well, and, you know, without  
2 related authority, and we have, you know, the Board of  
3 Pharmacy and the Department of Public Health, who have  
4 competing interests and different statutory authority and  
5 requirements, and I think that all of the issues that  
6 continue to be raised by stakeholders are valid and that's  
7 why you've put them forward.

8           Gary has a comment and then Carole.

9           Gary.

10          BOARD MEMBER PETERSEN: Thank you, Madam Chair.

11          I happen to totally agree with Member Kuehl on  
12 how this is -- and what the staff is saying. This is --  
13 being a collector and designing systems out in the street  
14 to do this, aye-yi-yi. It blows me away how we have to  
15 think about this. But then I look at the other side of  
16 this and say, "Where's our EPR?" This would be classical  
17 for the EPR framework. And let's -- the product  
18 manufacturers have got to get in the game and help us deal  
19 with this stuff. And that's where I think this needs to  
20 go.

21          So I know this is not perfect and it's something  
22 we have to do. But we really should be concentrating as  
23 part of our EPR and our policies, that's where we've got  
24 to take this really hard stuff to do and put it in that  
25 kind of a framework.

1 CHAIRPERSON BROWN: Carole.

2 BOARD MEMBER MIGDEN: I'm only saying, Madam  
3 Chair, I don't think we can qualify between  
4 Board-approved, staff-approved, staff-submitted or  
5 whatever, because it's from us. And I also think if there  
6 are some mitigations or other considerations, that that  
7 can be part of the presentation, that this is an absolute,  
8 they're flawed, it requires interagency cooperation. I  
9 mean to just have it be a narrative document that takes us  
10 as far as we can go. And that, in itself, would indicate  
11 statutory -- you know, certain statutory maybe allowances  
12 in addition to jurisdictional issues between agencies.

13 BOARD MEMBER LAIRD: Madam?

14 CHAIRPERSON BROWN: John.

15 BOARD MEMBER LAIRD: I want to follow up with  
16 Member Kuehl's comments. And I have one concern, because,  
17 in general, I subscribe to what she said and I think  
18 it -- I said it a different way with how I thought the  
19 Senator needed to address things.

20 But there is a genuine problem here. This was  
21 designed to address a genuine problem. And my concern is,  
22 is a lot of the stakeholders are coming at it from their  
23 interest and they just want to protect their interests,  
24 and there's nothing wrong with that. But if they're  
25 interests trumps addressing the problem, they're fine with

1 that. And somehow, at the end of this, we have to address  
2 this problem. And I am concerned on two levels, that we  
3 somehow send a message out of all of that, that we need to  
4 walk away from this.

5 I don't think we need to walk away from  
6 addressing the problem, and that that message needs to be  
7 sent clearly.

8 And I would harken back -- I've lost track  
9 because my public life runs altogether years-wise. But I  
10 think when the bottle bill and people were running at it  
11 year after year in the 1980s and couldn't get there to do  
12 it, the objection from the retailers was always, "Oh, we  
13 don't have the storage. We can't deal with it. There's a  
14 horrible storage issue." And yet it finally took bridging  
15 what the goal was with what some of those problems were to  
16 get over the hump and really solve the problem.

17 And I just don't want to get away from the fact  
18 that there's horrible impacts from dumping pharmaceuticals  
19 down the drain that are being experienced every day right  
20 now in California, and that somehow we have to fix it.  
21 And if this creates an unwieldy situation that can't work  
22 in the way Member Kuehl pointed out, then hopefully it  
23 will either get to extended producer liability or some  
24 framework where we do address it. But I just don't want  
25 to lose site of actually addressing the problem.

1           BOARD MEMBER KUEHL: I think the question in  
2 terms of producer liability is also a little bit murky.  
3 Where pharmacies compound their own sometimes generics  
4 or -- you know, then they're the producer. And it's  
5 always a little more complicated.

6           I guess I would then say, perhaps as a  
7 compromise, if we want to send a signal, as Member Laird  
8 said -- it's funny how you're all your first names and  
9 we're all Member Somebody or other. I think you could  
10 call me Sheila. I don't know, I always feel uncomfortable  
11 when there's that kind of a division.

12           (Laughter.)

13           BOARD MEMBER KUEHL: -- we could approve this,  
14 because this is a model that the Board is saying, "We  
15 think this is a good model for somebody to adopt." Local  
16 jurisdictions?

17           But I think we should also set a time to revisit,  
18 and I think a short timeframe, just to think about it. In  
19 other words, if we adopt it and say, "This is the model  
20 that we approve today. You know, take a look," I don't  
21 think it's going to go that far, frankly, because it is so  
22 complicated with many, many of the local jurisdictions.

23           I want to see what the new bill asks us to do. I  
24 want -- and, of course, we won't know that until probably  
25 August, really, when you get down to it, if there is a new

1 bill, because it will be compromised and compromised.

2 I also want to see if we can revisit our own take  
3 on this, in terms of the complexity-simplicity issue,  
4 because it's -- I generally would always want to support  
5 the thoughtful and aggregate decisions when stakeholders  
6 work with staff. I think that's -- it's better than me  
7 waking up in the morning saying I don't think this is  
8 going to work, because that's just me.

9 So, perhaps if we approved this today as a model  
10 to be put out to local jurisdictions and then said, "But,  
11 you know, I think we need to revisit this item" just for  
12 discussion somewhere, in a short timeframe, it would make  
13 me feel more comfortable about it.

14 CHAIRPERSON BROWN: What's a reasonable short  
15 timeframe?

16 BOARD MEMBER KUEHL: We won't have any more  
17 information.

18 CHAIRPERSON BROWN: Six months?

19 We won't have much more information, and I don't  
20 know how many would implement it.

21 Six months?

22 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I  
23 think that's probably good, because we'd know what the  
24 legislation says, we'd know what the status of EPR  
25 framework legislation is. I think, in general, staff



1 would agree that this is a prime candidate for some kind  
2 of EPR approach. We just didn't have that latitude to  
3 work on that in this endeavor.

4           So six months, I think, is good. We might know  
5 about a few programs, or at least we could go look at the  
6 existing programs, and then be able to assess whether  
7 they've been able to implement this or chose not to or,  
8 you know, what the status is and -- we'll have some data.

9           CHAIRPERSON BROWN: And I think that Carole's  
10 narrative would be helpful in the beginning of the  
11 document so that people understand how we're putting this  
12 document out, the limitations, who the participatory  
13 members of the development of this have been, and what the  
14 process has been thus far.

15           So is everybody okay with that?

16           Okay. Can we issue that -- do we need a  
17 resolution and adoption of this, or can we just direct  
18 staff to do it?

19           CHIEF COUNSEL BLOCK: You need to adopt this --

20           CHAIRPERSON BROWN: We need a resolution  
21 according to our --

22           CHIEF COUNSEL BLOCK: Well, if you want the  
23 changes in this revision, you would need to adopt it,  
24 since you've already adopted the first version without  
25 those provisions.

1           CHAIRPERSON BROWN: Okay. So with the current  
2 provisions as we've discussed, and which are stated on the  
3 record, can I have a motion then on Resolution 2009-24?

4           BOARD MEMBER MULÉ: So moved.

5           BOARD MEMBER PETERSEN: Second.

6           CHAIRPERSON BROWN: It's been moved by Member  
7 Mulé, seconded by Member Petersen.

8           Kristen, can you call the roll on this.

9           EXECUTIVE ASSISTANT GARNER: Kuehl?

10          Laird?

11          BOARD MEMBER LAIRD: Aye.

12          EXECUTIVE ASSISTANT GARNER: Migden?

13          BOARD MEMBER MIGDEN: Aye.

14          EXECUTIVE ASSISTANT GARNER: Mulé?

15          BOARD MEMBER MULÉ: Aye.

16          EXECUTIVE ASSISTANT GARNER: Petersen?

17          BOARD MEMBER PETERSEN: Aye.

18          EXECUTIVE ASSISTANT GARNER: Brown?

19          CHAIRPERSON BROWN: Aye.

20          Do you want to abstain or --

21          BOARD MEMBER KUEHL: I want no vote recorded.

22          CHAIRPERSON BROWN: Okay. Thank you.

23          The resolution passes.

24          BOARD MEMBER KUEHL: And then could I ask if we  
25 also have agreed that there would be some kind of a

1 narrative, as you indicated, that we will ask to revisit  
2 this in six months?

3 CHAIRPERSON BROWN: Six months.

4 BOARD MEMBER KUEHL: And what we're looking at is  
5 not only legislation, but you said jurisdictions that have  
6 implemented some kind of a program, some feedback from  
7 them about what they did and how it's working? Because we  
8 had very little -- we had very little to look at yet.

9 CHAIRPERSON BROWN: Right.

10 BOARD MEMBER KUEHL: Thank you very much.

11 CHAIRPERSON BROWN: Thank you, Sheila.

12 Okay. We're going to take a five-minute break  
13 and then we'll come back for our last two items.

14 (Thereupon a recess was taken.)

15 CHAIRPERSON BROWN: Okay. So I'm going to call  
16 the meeting to order and declare that we have a quorum and  
17 all members present.

18 And any ex partes?

19 I will mention that I think Terry Leveille has  
20 individually spoken to almost every member at the dais.

21 So Terry Leveille, in general, and on  
22 tire-related items, we'll ex parte that.

23 Anybody other than Terry Leveille?

24 BOARD MEMBER MULÉ: I just had a conversation  
25 George Eowan just about general solid waste issues.

1           BOARD MEMBER LAIRD: Yeah, he and I talked about  
2 schizophrenia. So I hope that's not Board related.

3           (Laughter.)

4           CHAIRPERSON BROWN: Well, now -- yeah, exactly,  
5 now that it's on the record. Whether it relates  
6 personally or to issues? I mean, you can be schizophrenic  
7 on issues, but that's about it.

8           Okay. We --

9           BOARD MEMBER LAIRD: Not on pharmaceutical waste.

10          (Laughter.)

11          CHAIRPERSON BROWN: Okay. We're going to go to  
12 Full Board Item No. 12.

13          We finished 10. We finished -- yeah, we finished  
14 10. So we'll go next to 12.

15          And Howard Levenson.

16          SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:

17 Thanks, Madam Chair.

18          This is an item that concerns a scope of work for  
19 the RAC Engineering and Technical Assistance Contract.

20          And as Nate will explain, this is a continuation  
21 of the services that we've historically provided to local  
22 agencies, with one new tactic, which would help some of  
23 the rural and small entities in dealing with RAC projects.

24          This is relatively straightforward conceptually.  
25 There's some complexities in terms of the funding. And

1 the exact funding amounts will depend on your ultimate  
2 decision on the five-year tire plan in May. But we need  
3 to get the contract process started now, so that by the  
4 end of this fiscal year, we can encumber the funds. So  
5 that's the purpose of bringing this to your attention.

6 So I'd like to turn it over to Nate Gauff, who's  
7 our resident expert on RAC, to make the presentation.

8 CHAIRPERSON BROWN: Great. Thank you, Howard.

9 Nate.

10 MR. GAUFF: Good morning, Madam Chair and Board  
11 members. I'm Nate Gauff with the Science and Tire  
12 Engineering Section.

13 This scope of work is the second iteration of  
14 this contract. I'd like to give the Board a little brief  
15 history on our technical assistance efforts to local  
16 governments.

17 It started in 1997 with the Rubberized Asphalt  
18 Concrete Technology Center, which was actually staffed by  
19 Los Angeles County. That was a statewide center.

20 In 2000, we did split the state by incorporating  
21 Sacramento County as a technical assistance advisor in the  
22 northern part of the state.

23 There was an evaluation report that was conducted  
24 in 2004 looking at the technology centers and how we might  
25 better be able to deliver services to local governments.

1 And as result of that evaluation report, the Board took a  
2 new direction, which resulted in the first engineering and  
3 technical assistance contract and using Mactec Engineering  
4 and Consulting as our contractor.

5           As Howard said, this is pretty straightforward.  
6 And it's very similar to the first contract, in that we  
7 will be providing one-on-one technical assistance to local  
8 agencies as part of our grant program. We also will be  
9 conducting multi-jurisdictional and regional workshops,  
10 kind of a refresher program or a continuing education  
11 program for local agency personnel.

12           We also have the contractor assisting in review  
13 of engineering design specifications for local agencies,  
14 that type of thing, and also providing construction  
15 management oversight and doing some inspection technical  
16 assistance training for agencies.

17           In addition, we will have the contractor produce  
18 or perform studies as needed. One of the studies as an  
19 example, that it came up on the existing contract, was  
20 looking at rubberized slurry seal. So Mactec did an  
21 investigation with three local agencies on doing infield  
22 testing for rubberized slurry seal. So we're looking for  
23 those types of services in the future also.

24           The new part of the program is the Cooperative  
25 Purchase Program. And what we're looking to do is -- what

1 our contractor will be doing for us within this scope is  
2 to actually coordinate the projects for the -- on behalf  
3 of local agencies. Primarily, this will be serving the  
4 rural agencies. But also it may serve some smaller urban  
5 agencies that just don't have the size of project to be  
6 able to get the benefits or the economy of scale for the  
7 material. And they can partner with other agencies and  
8 reduce their costs, in addition to getting the engineering  
9 design and training services that they would need.

10 So that's the new part of the program.

11 With that, I would recommend that the Board adopt  
12 Resolution 2009-22.

13 And ask if there are any questions.

14 CHAIRPERSON BROWN: Thank you, Nate.

15 Do we have any questions from Board members?

16 Sheila.

17 BOARD MEMBER KUEHL: The Mactec Engineering and  
18 Consulting contract. When we're told that we want to  
19 circulate a new RFQ, so as to avoid a break in service, is  
20 that competitive or does that give Mactec a leg up?

21 MR. GAUFF: No. Actually, Mactec is the existing  
22 contractor. Once the scope is approved, we will put out a  
23 new RFQ for private companies to bid on this new contract.

24 The break in services will occur because this  
25 contract is starting with fiscal 2009-10 money, and the

1 existing contract is scheduled to expire in May of 2009.

2 So we anticipate there may be a month or two gap in

3 service to agencies while we're putting this new contract

4 in place.

5 BOARD MEMBER KUEHL: But is Mactec in the pool to

6 receive this money?

7 MR. GAUFF: We anticipate that they will bid on

8 the new contract.

9 BOARD MEMBER KUEHL: But there's no real

10 preference given because of their -- I mean, obviously,

11 we'd have some experience with them. But --

12 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: That's

13 correct. And that's true on a lot of our engineering

14 contracts. Sometimes we have multiple experienced

15 bidders. Some have had prior contract experience with the

16 Board, so they will have some knowledge of the program.

17 But it's an open competition.

18 BOARD MEMBER KUEHL: Okay. Thanks.

19 CHAIRPERSON BROWN: Any other questions?

20 BOARD MEMBER PETERSEN: Madam Chair, I'd like to

21 move Resolution 2009-22.

22 BOARD MEMBER KUEHL: Second.

23 CHAIRPERSON BROWN: It's been moved by Member

24 Petersen, seconded by Member Kuehl.

25 Kristen, can you call the roll.



1 EXECUTIVE ASSISTANT GARNER: Kuehl?

2 BOARD MEMBER KUEHL: Aye.

3 EXECUTIVE ASSISTANT GARNER: Laird?

4 BOARD MEMBER LAIRD: Aye.

5 EXECUTIVE ASSISTANT GARNER: Migden?

6 BOARD MEMBER MIGDEN: Aye.

7 EXECUTIVE ASSISTANT GARNER: Mulé?

8 BOARD MEMBER MULÉ: Aye.

9 EXECUTIVE ASSISTANT GARNER: Petersen?

10 BOARD MEMBER PETERSEN: Aye.

11 EXECUTIVE ASSISTANT GARNER: Brown?

12 CHAIRPERSON BROWN: Aye.

13 Resolution passes. The resolution passes.

14 And we'll move next to Agenda Item 13.

15 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Thank

16 you, Madam Chair. And I'll go ahead and present this

17 item, which is asking you to consider a limited exception

18 to our Tire-Derived Product Business Assistance Program

19 that requires the use of California-based --

20 California-derived crumb rubber.

21 What we're seeking is your consideration of

22 allowing the use of, what we call, very fine grind crumb

23 rubber from out-of-state sources under limited

24 circumstances.

25 This is -- the timing of this is important,

1 because we're going to be issuing a notice later -- or  
2 next -- later this month for the third cycle of the TBAP,  
3 the Business Assistance Program, grants, and so we need to  
4 resolve this issue before that announcement is  
5 distributed.

6           What this really involves is an effort called  
7 feedstock conversion, in which we're trying to work with  
8 companies who currently use virgin materials, and then  
9 have them substitute ground rubber, crumb rubber for some  
10 of the other materials, and so that they increase their  
11 use of recycled rubber.

12           Now, in general, the Board has a requirement that  
13 the TBAP assistance in our grant -- tire grants and so on  
14 be structured in such a way that the grantees use a  
15 hundred percent California crumb rubber. And that makes  
16 sense as a general condition. Funds ought to be spent on  
17 projects that use California-generated waste tires.

18           In this particular circumstance, however, that  
19 requirement might be hampering our ability to pursue this  
20 idea of a higher market development strategy, this idea of  
21 getting very fine crumb rubber products built -- or  
22 produced in the State and developing a demand for the  
23 production of that fine crumb rubber within the state.

24           Most of the firms that might be candidates for  
25 this have to have a very fine crumb rubber, we call it 80

1 mesh or smaller. It's a very small-sized particle. And  
2 we are aware of one in-state -- potential in-state  
3 supplier of this material. But we're not sure whether  
4 that supplier can produce it in the quantities or in the  
5 specifications that these potential grantees might need.

6           So as a result, the firms that might be  
7 interested in feedstock conversion may not necessarily  
8 apply for our grants, because they don't know that they  
9 can source this -- get a source of very fine crumb rubber.

10           So what we're asking is that you approve the use  
11 of this very fine crumb rubber from out-of-state sources  
12 under limited circumstances; in particular, that we say --  
13 we place in our notice of funds available, and in the  
14 grant application, that feedstock conversion using 80 and  
15 finer mesh crumb rubber source from out of California may  
16 be used for testing and demonstration purposes, subject to  
17 a Board staff determination, that the needed materials are  
18 not currently available in California and only for a  
19 timeframe of up to 18 months.

20           So what this would allow is a potential business  
21 to bring in a source of this fine crumb rubber, test it  
22 out, see if it works in the product, see if they can  
23 produce it. And if they can, that's great. We wouldn't  
24 allow that to continue on a indefinite basis. It would be  
25 simply for this testing and demonstration purposes.

1           And, hopefully, if we get some firms who do that,  
2 then they will start demanding that the material be  
3 produced within California. And then there will be more  
4 incentive for the producers to invest maybe in our  
5 equipment loan program, to come in for a loan to produce  
6 this kind of material.

7           So that's the idea here, is just this limited  
8 exception.

9           So with that -- and we'd be happy to answer any  
10 more questions -- we're recommending Option 1 and the  
11 adoption of Resolution 2009-23.

12           BOARD MEMBER MIGDEN: So - if I might, Madam  
13 Chair - the limited exception is to find takers, I  
14 guess --

15           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: I'm  
16 sorry?

17           BOARD MEMBER MIGDEN: -- your out-of-state  
18 takers?

19           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: It  
20 would allow a business located within California to bring  
21 in this very fine crumb rubber from out of state.

22           BOARD MEMBER MIGDEN: From outside of California?

23           SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:  
24 Correct.

25           BOARD MEMBER MIGDEN: And so we're going to be

1 solving, but only a limited way, so we're not solving  
2 other state's problems at the cost of California?

3 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:

4 Correct.

5 BOARD MEMBER MIGDEN: And we believe that that  
6 might spur interest. So when you say "limited," we're  
7 going to shop it to a couple of specific we know  
8 business --

9 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We  
10 hope that there will be a few businesses who come in under  
11 our grant applications who want to pursue this.

12 BOARD MEMBER MIGDEN: So it's a couple of hundred  
13 grand or something are we talking about here?

14 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: It  
15 wouldn't even be that much in terms of monies per  
16 individual business. The individual grants are usually --  
17 I'd have to get the information. But they're --

18 BOARD MEMBER MIGDEN: That's good enough for me.

19 Thank you.

20 CHAIRPERSON BROWN: Are we specifically  
21 asked -- have we been asked to relax the criteria for a  
22 particular project or product for a member of the TBAP  
23 program? Are they asking?

24 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: We  
25 haven't been approached by any particular business. But

1 what we have is our contractor under the TBAP program,  
2 who's here and could speak to this, if you wish.

3 In working on this and the last two grant cycles,  
4 one of our objectives has been this feedstock conversion,  
5 to get manufactures to switch over. And in talking with  
6 various businesses, they've come to realize that there is  
7 this opportunity, they'd be interested in applying for our  
8 grant program, but they are not sure that there's a supply  
9 of this material.

10 So it's a general -- you know, based on their  
11 knowledge of the markets and the potential, it's a general  
12 situation. We're not guaranteed that anybody will come in  
13 for this exception. And certainly if somebody does, we're  
14 going to be obligated to check around with the suppliers  
15 within California to say, "Can you supply X quantity at  
16 the proper specifications?" And if they can, then there's  
17 no -- we cannot invoke the exception.

18 CHAIRPERSON BROWN: Well, because what I thought  
19 I heard you say is we may have a producer in California  
20 that may be able to produce this mesh fine material. And  
21 if they're not being requested to use it, is there a  
22 demand and are we creating or sending a message -- I mean,  
23 I understand the feedstock conversion and our desire to  
24 move the markets. But are we getting ahead of ourselves?

25 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Well,

1 we aren't aware of any -- and this is a general market  
2 opportunity that we can avail ourselves of. We are aware  
3 that there is one potential producer.

4 CHAIRPERSON BROWN: Okay.

5 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: But  
6 we're not sure if they can produce it in the quantities  
7 and specifications.

8 CHAIRPERSON BROWN: Okay.

9 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON:  
10 Certainly, that's one of the producers that we  
11 would go to first. If we have an applicant under the  
12 program who wants to use 80 or 100 mesh, one of our first  
13 responsibilities is going to say, "Well, have you talked  
14 to the California producers? Can they provide that to  
15 you?"

16 If the answer's "yes," then we go forth with  
17 that. If the answer's "no," then this would allow us  
18 to -- allow that business to import some from out of  
19 state.

20 CHAIRPERSON BROWN: Okay. Any other questions?

21 I do have a speaker.

22 Terry Leveille.

23 MR. LEVEILLE: Madam Chair and Board members,  
24 terry Leveille, TL & Associates.

25 This is a tricky industry, this feedstock

1 conversion. Right now, there are companies -- there's  
2 about three large crumb rubber processors in California,  
3 two in southern California and one in northern California.  
4 Another couple companies make small quantities of it.  
5 Most of these could make the product. It's an expensive  
6 proposition. It slows everything down to make it that  
7 fine to grind.

8 But most of them could make that product.

9 But there really hasn't been demand for it. And  
10 I know that the program is trying to develop some demand  
11 for it, especially with these companies that currently use  
12 plastic or virgin rubber. If they can use this fine grind  
13 crumb rubber, it might be a little cheaper, it might have  
14 some different properties that may get a little bit better  
15 product.

16 As long as, you know, the program staff looks at  
17 the California companies, contacts them and, you know,  
18 tells them how much they want and how much they can afford  
19 to pay, I don't think that anybody in California is going  
20 to have a problem with it.

21 It is a break from tradition though. It is a  
22 break from policy. It's a little -- because -- but we're  
23 not talking about significant amounts of it. And if the  
24 market develops, which is a real -- I think is somewhat of  
25 a long shot, because we're talking about needing



1 significant amounts of this stuff and it's expensive to  
2 process. And it's iffy, it's real iffy. But if the  
3 market develops, then you might, you know, be able to get  
4 a California processor to dedicate a portion of a line to  
5 making the fine grind. I don't know.

6 Most of the people I've talked to, the  
7 stakeholders, the crumb rubber processors, at first, they  
8 looked at it and they were, you know, concerned. But I  
9 think once they read the caveats in there and the  
10 protections to their industry, I think they feel okay.

11 I just wanted to add one other little thing, that  
12 there is an ongoing problem that I mentioned in committee  
13 the other day, and that's a heavily subsidized crumb  
14 rubber coming into California, that I find that now is  
15 going into some of the public schools' synthetic turf  
16 projects and CalTrans projects.

17 Now, the state -- CalTrans is required by law to  
18 use only U.S.A.-only crumb rubber. They're not limited to  
19 California. They can get Arizona crumb rubber, they can  
20 get crumb rubber from other places, but they can't get it  
21 from Canada.

22 And this is a potential concern, because there is  
23 one or two companies that are starting to use Canadian  
24 crumb rubber, because it is heavily subsidized and still  
25 cheaper than crumb rubber in California that's

1 manufacturing crumb rubber, even though it's transported  
2 all the way down from the Canadian border. It's primarily  
3 British Columbia from Western Rubber Company.

4           So this is an issue. I would hope that maybe  
5 back in their market analysis -- might look into this  
6 before they present their market analysis of imports in  
7 their market analysis in I think it's coming up in March.  
8 But this is something that ultimately we may want to ask  
9 the Board to either write a letter to CalTrans, we may  
10 want to -- I know that on the grants, your RAC grants,  
11 your tire-derived product grants, have a  
12 self-certification thing. I don't know how often those  
13 get examined. But certainly, you know, that should be a  
14 part of the grant program, so that we don't start  
15 encouraging out-of-state product coming into California  
16 and thereby hurt our own industries.

17           So two points.

18           CHAIRPERSON BROWN: First thing that comes to  
19 mind is GHG reduction. And pretty soon everybody's going  
20 to have to start attributing the life-cycle analysis of  
21 that transportation cost and climate impact on bringing  
22 crumb all the way down from BC, because they're part of  
23 the Western Climate Initiative as well.

24           So hopefully as those things start kicking in,  
25 we'll start looking at more regional and local markets for

1 the material.

2 But, Howard, did you want to respond to some of  
3 Terry's --

4 SUSTAINABILITY PROGRAM DIRECTOR LEVENSON: Well,  
5 just that under the five-year tire plan, I did mention  
6 that we would be looking on extending our market analysis  
7 to deal with some of the regional issues, including the  
8 imports from north and south, to the extent that we can.  
9 And so I appreciate that comment from Terry.

10 In terms of his assessment or his clients'  
11 assessment of this particular issue and whether something  
12 will happen, I think he's right. We don't know whether  
13 there will be any takers. Maybe there won't be and we  
14 will just abandon that effort. But at least this gives us  
15 a shot to look at this and see if we can develop something  
16 else.

17 CHAIRPERSON BROWN: Sure.

18 Sheila.

19 BOARD MEMBER KUEHL: I was just thinking when you  
20 were talking about Canada. Do we have a NAFTA issue?  
21 Because, interestingly enough, I used to chair a select  
22 committee on the impact of international trade agreements  
23 on state laws - environmental laws, labor laws - you know,  
24 what could be sort of superseded and what couldn't,  
25 because those trade agreements aren't even adjudicated in

1 courts. They're adjudicated by private panels. And there  
2 were several suits by companies, including the Canadian  
3 company, that made part of the MTBE, one of those  
4 chemicals -- the M in MTBE. When California banned it in  
5 the gasoline, they sued as a violation of NAFTA. Because  
6 if a state takes an action, it's attributed to the  
7 country.

8 And we were afraid we were going to be told that  
9 we couldn't ban it. But it never went anywhere.

10 Still, it's a very interesting thing if you say  
11 even to one of your state entities, "You must only buy  
12 local."

13 MR. LEVEILLE: Well, and like you say, I think  
14 there is a NAFTA issue, because I don't -- I think they  
15 have a problem, because it is a heavily subsidized  
16 product. It's coming down and competing with a California  
17 product.

18 BOARD MEMBER KUEHL: So it's a NAFTA issue for  
19 us.

20 MR. LEVEILLE: But as far as the industry in  
21 California, they don't have the deep pockets to, you know,  
22 hire an attorney.

23 So, our thinking is, is that the leverage, you  
24 know, would probably be best -- because CalTrans is the  
25 largest user of asphalt rubber in California, that our

1 leverage with CalTrans would be the strongest thing, just  
2 to remind them that by law they are required to use  
3 U.S.A.-only crumb rubber in their projects.

4 And I'm sure that Will Kempton will be -- you  
5 know, who's a very strong environmentalist --

6 BOARD MEMBER KUEHL: Yes, right.

7 Thank you.

8 MR. LEVEILLE: -- will be interested in that.

9 CHAIRPERSON BROWN: Our attorney's waving his  
10 hand.

11 Elliot.

12 CHIEF COUNSEL BLOCK: Yes, thank you.

13 Just wanted to clarify. And again not to jump  
14 into the CalTrans issues, but in terms of the Board's  
15 policy in terms of California-only tires for grants, we've  
16 looked at that issue. We don't have a NAFTA issue,  
17 because here we're talking about the Board's criteria  
18 rules for how it's going to give money out, which is a  
19 different animal than bans or regulation.

20 MR. LEVEILLE: My issue was with -- the NAFTA one  
21 was with the CalTrans. But as far as the grants -- and my  
22 issue with the grants was that even though they are  
23 self-certifying at the local level with the schools and  
24 the cities, that the Board, you know, take a look from  
25 time to time and do a random check to make sure that

1 everything's --

2 BOARD MEMBER KUEHL: Just to see if the grant  
3 money is going for California products.

4 MR. LEVEILLE: Yep.

5 BOARD MEMBER KUEHL: Yeah.

6 CHAIRPERSON BROWN: Uh-huh.

7 MR. LEVEILLE: Thank you.

8 CHAIRPERSON BROWN: Thank you, Terry.

9 Any other questions?

10 A motion?

11 BOARD MEMBER PETERSEN: Madam Chair, I'd like to  
12 move Resolution 2009-23.

13 BOARD MEMBER MULÉ: Second.

14 CHAIRPERSON BROWN: It's been moved by Member  
15 Peterson, seconded by Member Mulé.

16 Without objection, we can substitute the previous  
17 roll. And that concludes our regular business.

18 The Board will move into closed session for a  
19 brief closed session right now -- immediately following.  
20 And then we will adjourn from there.

21 (Thereupon the California Integrated Waste  
22 Management Board meeting recessed into  
23 closed session and adjourned at 12:12 p.m.)

24

25

1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board  
7 meeting was reported in shorthand by me, James F. Peters,  
8 a Certified Shorthand Reporter of the State of California,  
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in any  
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 2nd day of March, 2009.

15

16

17

18

19

20

21

22 JAMES F. PETERS, CSR, RPR

23 Certified Shorthand Reporter

24 License No. 10063

25